ESTTA Tracking number:	**ESTTA285360**
Filing date:	**05/21/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91181512
Party	Defendant 5 Star Linux, Inc.
Correspondence Address	J. James Li Greenberg Traurig LLP 1900 University Avenue, 5th Floor EAST PALO ALTO, CA 94303 UNITED STATES IPDOCKETING@HOWREY.COM
Submission	Other Motions/Papers
Filer's Name	J. JAMES LI
Filer's e-mail	lij@gtlaw.com
Signature	/J. JAMES LI/
Date	05/21/2009
Attachments	Motion.PDF (5 pages)(131241 bytes) Exhibit A 1.PDF (5 pages)(64979 bytes) Exhibit A 2.PDF (4 pages)(58301 bytes) Exhibit A 3.PDF (5 pages)(75493 bytes) Exhibit B.PDF (20 pages)(479998 bytes) Exhibit C.PDF (16 pages)(393518 bytes) Exhibit D.PDF (3 pages)(37038 bytes) Exhibit E 1.PDF (13 pages)(507321 bytes) Exhibit E 2.PDF (2 pages)(17541 bytes) Exhibit E 3.PDF (10 pages)(382488 bytes) Exhibit E 4.PDF (5 pages)(129676 bytes) Exhibit E 5.PDF (10 pages)(378869 bytes)

OpenTV, Inc.

           Opposer,

v.

5 Star Linux, Inc.

           Applicant.

Opposition No. 91181512

APPLICANT'S MOTION FOR ENTRY OF JUDGMENT FOR THE APPLICANT

Application Serial No.: 77/082,330
Filing Date: January 12,2007
Publication Date: August 28, 2007

Applicant and Defendant 5 Star Linux, Inc. ("5SLI"), though its counsel of record, hereby move to dismiss OpenTV, Inc. ("OpenTV")'s Opposition to 5SLI's OPENPVR trademark application and for entry of judgment in 5SLI's favor.

I.   INTRODUCTION

5SLI registered the *openpvr.com* domain name in 2000 and filed its application for the mark OPENPVR in 2007. OpenTV attempts to invalidate 5SLI's OPENPVR registration on the claim that it has a family mark with the surname "OPEN" and that it has a common-law mark OPENTV PVR that predates 5SLI's application. OpenTV, however, did not respond to 5SLI's discovery requests and did not present any witness testimony to support its claims. Now the deadlines for discovery and trial have passed. OpenTV has no evidence on the record to support its claims of family mark or common law mark. Therefore, judgment should be entered for Applicant 5SLI.

II.   STATEMENT OF FACTS

5SLI and its parent company, EnReach Technology, Inc., have been the owners of the domain names openpvr.com, openpvr.org, and openpvr.net since 2000. Ex. A. On January 12, 2007, 5SLI filed its application for the trademark "OPENPVR" (the "Application") The Application was published in the Official Gazette on August 28, 2007. The OPENPVR mark covers the following goods and services:

> Audio and video receivers, signal decoder boxes, television set-top boxes and signal converters; consumer electronics hardware devices for playing audio and video from a computer hard disk drive and storing and playing transmissions from television and radio broadcasts and from computer networks, namely, audio and video disk recorders, remote controls, computer hardware and computer peripherals; computer client-server software for use in delivering, receiving and managing integrated voice, video and data from the

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Internet to display units and televisions; computer software for use in operating telecommunications devices; and user manuals and guides sold as a unit therewith. (International Class 9)

Broadcasting programs via computer networks; electronic transmission of messages and data, delivery of messages via computer networks; video broadcasting and messaging services; video-on-demand transmission services, providing multiple-user access to a global computer information network; and providing consulting in the field of telecommunications. (International Class 38)

On December 26, 2007, OpenTV filed the instant Opposition to the Application. OpenTV alleges that it has a common-law OPENTV PVR mark and "a family of 'OPEN' marks" and that these marks predate 5SLI's Application in priority.

On February 8, 2007, pursuant to a stipulation, this Board granted an extension of time and set forth the following case schedule:

Event	Date
Time to answer	3/5/2008
Deadline for discovery conference	4/4/2008
Initial disclosures due	5/4/2008
Expert disclosures due	9/1/2008
Discovery closes	10/1/2008
Plaintiff's pretrial disclosures	11/15/2008
Plaintiff's 30-day trial period ends	12/30/2008
Defendant's pretrial disclosures	1/14/2008
Defendant's 30-day trial periods ends	2/28/2009
Plaintiff's rebuttal disclosures	3/15/2009
Plaintiff's 15-day rebuttal period ends	4/14/2009

On March 4, 2008, 5SLI filed its answer. On June 9, 2008, 5SLI served on OpenTV its First Set of Document Requests and First Set of Interrogatories by mail. Ex. B & C. The deadline for OpenTV to respond to 5SLI discovery requests was July 14, 2008. Counsel for OpenTV acknowledged the deadline in an email and asked for extension in view of OpenTV's settlement proposal. Ex. D. 5SLI

2

1 | did not agree to the requested extension of time. Ex. D.

2 | OpenTV never responded to 5SLI's discovery requests. In fact, OpenTV did not do anything in
3 | this case after its settlement proposal was rejected in July 2008.

4 | III. ARGUMENT

5 | A.   There Is No Evidential Support for the Alleged "OPEN" Family Mark

6 | A "family of marks" is "a group of marks having a recognizable common characteristic, wherein
7 | the marks are composed and used in such a way that the public associates not only the individual marks,
8 | but the common characteristic of the family, with the trademark owner. " *AM Gen. Corp. v.*
9 | *Daimlerchrysler Corp.,* 311 F.3d 796, 814 (7th Cir. Ind. 2002) (internal quotations and citations
10 | omitted). "Simply using a series of similar marks does not of itself establish the existence of a family.
11 | There must be a recognition among the purchasing public that the common characteristic is indicative of
12 | a common origin of the goods." *Id.*

13 | OpenTV merely shows that it has registered several marks with the common prefix "OPEN."
14 | There is no evidence whatsoever that the public associates the word "OPEN" with OpenTV. To the
15 | contrary, OPEN is a highly descriptive term used widely in the industry to connote the meaning of being
16 | free, non-proprietary, or decentralized (e.g., OpenID, Open System, OpenDNS, OpenOffice,
17 | OpenSource) *See* Ex. E. None of the commonly used OPEN technology or products belonged to
18 | OpenTV. Thus, OpenTV cannot claim ownership to the family mark OPEN.

19 | B.   There Is No Evidence Supporting OpenTV's Claim Based on OPENTV PVR

20 | OpenTV claims that it has a common-law mark OPENTV PVR which predates the OPENPVR
21 | application's filing date. There are two problems with this claim. First, there is no evidence for the
22 | existence of the mark OPENTV PVR. To be sure, 5SLI explicitly requested documentary proof on this
23 | point through its document requests. *See* Ex. B, Request No. 12 ("Any and all documents relating to
24 | your purported common law trademark rights in the mark OPENTV PVR"), No. 13 ("Any and all
25 | documents relating to your purported use of OPENTV PVR"), No. 29 ("Any and all documents relating
26 | to your purported efforts and the expenditure of considerable sums of money in connection with
27 | advertising, promotional and market services relating to OPENTV PVR"), No. 30 ("Any and all
28 | documents relating to your purported valuable goodwill and consumer recognition of OPENTV PVR"),

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No. 31 ("Any and all documents demonstrating that OPENTV PVR is distinctive and famous"), No. 31 ("Any and all documents demonstrating that your alleged common law rights in the OPENTV PVR mark also proceed Applicant's filing date"), No. 38 ("Any and all documents demonstrating that OPENTV PVR is distinctive for your goods and services"). OpenTV never bothered to even respond to these document requests. Thus, as a matter of fact OpenTV does not have the right to the alleged common-law mark OPENTV PVR.
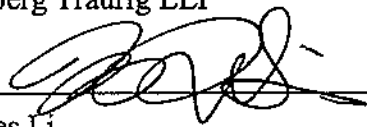
Second, even assuming *auguendo* that OpenTV has a common-law mark OPENTV PVR, which it does not, OpenTV has not presented any evidence of any potential or actual consumer confusion between OPENTV PVR and OPENPVR. Again, 5SLI has explicitly requested such evidence through its document requests. *See* Ex. B, Request No. 56 ("Any and all documents demonstrating that applicant's mark resembles OPENTV PVR"), No. 57 ("Any and all documents demonstrating that Applicant's mark's resemblance to OPENTV PVR is likely, when applied to Applicant's Goods and Services, to cause confusion, to cause mistake, or to deceive as to the origin, sponsorship, or approval of Applicant's Goods and Services."), No. 58 ("Any and all documents demonstrating the injury to Opposer, the trade and the public that would result from the Applicant's Mark's resemblance to OPENTV PVR"), No. 74 ("Any and all documents demonstrating that the registration of Applicant's mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with OpenTV PVR"). Therefore, as a matter of fact, there is no consumer confusion between OPENTV PVR and OPENPVR.

Thus, OpenTV's opposition based on the alleged OpenTV PVR mark is baseless.

IV.   CONCLUSION

The Opposer OpenTV has not provided any evidence supporting its Opposition. Judgment should be entered in favor of the Applicant 5SLI.

Respectfully submitted,

Greenberg Traurig LLP

By: _____

J. James Li
Attorneys for Applicant

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APPLICANT'S MOTION FOR ENTRY OF JUDGMENT FOR THE APPLICANT
Opposition No. 91181512

346402590v1

EXHIBIT A 1

US Dollar -

NetworkSolutions.

Ca
1-8

Domain Names	Web Sites & Hosting	Online Marketing	E-Mail	SSL Certificates	All Services	Developers	Education Center	Manage Account

WHOIS Search Results

Your WHOIS Search Results

IMAGE NOT AVAILABLE

openpvr.com

Make an instant, anonymous offer to the current domain registrant. Learn More

Make an offer to buy this domain >

BOOKMARK

The data contained in GoDaddy.com, Inc.'s Whois database,
while believed by the company to be reliable, is provided "as is"
with no guarantee or warranties regarding its accuracy. This
information is provided for the sole purpose of assisting you
in obtaining information about domain name registration records.
Any use of this data for any other purpose is expressly forbidden without the prior written
permission of GoDaddy.com, Inc. By submitting an inquiry,
you agree to these terms of usage and limitations of warranty. In particular,
you agree not to use this data to allow, enable, or otherwise make possible,
dissemination or collection of this data, in part or in its entirety, for any
purpose, such as the transmission of unsolicited advertising and
and solicitations of any kind, including spam. You further agree
not to use this data to enable high volume, automated or robotic electronic
processes designed to collect or compile this data for any purpose,
including mining this data for your own personal or commercial purposes.

Please note: the registrant of the domain name is specified
in the "registrant" field. In most cases, GoDaddy.com, Inc.
is not the registrant of domain names listed in this database.

Registrant:
  EnReach Technology, Inc.
  Bo Wu
  2130 Gold Street
  San Jose, California 95002
  United States

SEARCH AGA

Enter a search

e.g. networksol

Search by:
⦿ **Domain N**
○ **IP Addres**

Now Oper

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Registered through: GoDaddy.com, Inc. (http://www.godaddy.com)
Domain Name: OPENPVR.COM
   Created on: 27-Jul-00
   Expires on: 27-Jul-09
   Last Updated on: 27-Jul-08

Administrative Contact:
   , bowu@enreach.com
   EnReach Technology, Inc.
   Bo Wu
   2130 Gold Street
   San Jose, California 95002
   United States
   408-956-8200   Fax –

Technical Contact:
   , bowu@enreach.com
   EnReach Technology, Inc.
   Bo Wu
   2130 Gold Street
   San Jose, California 95002
   United States
   408-956-8200   Fax –

Domain servers in listed order:
   NS1.CHINAQ.COM
   NS2.CHINAQ.COM

The previous information has been obtained either directly from the registrant or a registrar of the domain name
other than Network Solutions. Network Solutions, therefore, does not guarantee its accuracy or completeness.

Show underlying registry data for this record

Current Registrar: GODADDY.COM, INC.
IP Address: 1.1.1.1 (ARIN & RIPE IP search)
IP Location: -(-)
Record Type: Domain Name
Server Type: Indeterminate
Lock Status: clientDeleteProhibited
DMOZ   no listings
YI Directory: see listings
Secure: No
E-commerce: No
Traffic Ranking: Not available
Data as of: 20-Apr-2008

SOLUTIONS TO GET ONLINE

SOLUTIONS TO SELL ONLINE

SOLUTIONS TO GET CUSTOMERS

PROFESSIONAL BUSINESS SOLUTIONS

SOLUTIONS FOR ONLINE SECURITY

LEGAL & POLICY INFO

CORPORATE INFORMATION

PROMOTIONS & OFFERS

RESOURCES

CUSTOMER SUPPORT

SEARCH FOR A DOMAIN: `.com` Search GET

"An outstanding customer service experience" J.D. Power and Associates

EDITORS' CHOICE

#1 Shared Hosting AWARD

PayP

SiteSafe™ $1M GUARANTEE EXTENDED VALIDATION VERIFY Network Solutions

100% Secure Transaction
For your protection, this Web site is secured with the highest level of SSL Certificate encryption.

EXHIBIT A 2

US Dollar -

NetworkSolutions.

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| Domain Names | Web Sites & Hosting | Online Marketing | E-Mail | SSL Certificates | All Services | Developers | Education Center | | Manage Account |

WHOIS Search Results

Your WHOIS Search Results

IMAGE NOT AVAILABLE

openpvr.net

Make an instant, anonymous offer to the current domain registrant. Learn More

Make an offer to buy this domain »

BOOKMARK

The data contained in GoDaddy.com, Inc.'s Whois database,
while believed by the company to be reliable, is provided "as is"
with no guarantee or warranties regarding its accuracy. This
information is provided for the sole purpose of assisting you
in obtaining information about domain name registration records.
Any use of this data for any other purpose is expressly forbidden without the prior written
permission of GoDaddy.com, Inc. By submitting an inquiry,
you agree to these terms of usage and limitations of warranty. In particular,
you agree not to use this data to allow, enable, or otherwise make possible,
dissemination or collection of this data, in part or in its entirety, for any
purpose, such as the transmission of unsolicited advertising and
and solicitations of any kind, including spam. You further agree
not to use this data to enable high volume, automated or robotic electronic
processes designed to collect or compile this data for any purpose,
including mining this data for your own personal or commercial purposes.

Please note: the registrant of the domain name is specified
in the "registrant" field. In most cases, GoDaddy.com, Inc.
is not the registrant of domain names listed in this database.

Registrant:
  EnReach Technology, Inc.

  Registered through: GoDaddy.com, Inc. (http://www.godaddy.com)
  Domain Name: OPENPVR.NET

SEARCH AGA

Enter a search

e.g. networksol

Search by:
 ◉ Domain N
 ○ IP Addres

Domain servers in listed order:
NS1.CHINAQ.COM
NS2.CHINAQ.COM

For complete domain details go to:
http://who.godaddy.com/whoischeck.aspx?Domain=OPENPVR.NET
The previous information has been obtained either directly from the registrant or a registrar of the domain name other than Network Solutions. Network Solutions, therefore, does not guarantee its accuracy or completeness.

Show underlying registry data for this record

Current Registrar: GODADDY.COM, INC.
Record Type: Domain Name
Server Type: Indeterminate
Lock Status: clientDeleteProhibited
DMOZ no listings
YI Directory: see listings
Secure: No
E-commerce: No
Traffic Ranking: Not available
Data as of: 22-Apr-2008

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SEARCH FOR A DOMAIN: [ ] .com [Search]   GET

"An outstanding customer service experience".
J.D. Power and Associates

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SiteSafe™
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EXTENDED VALIDATION
VERIFY Network Solutions

100% Secure Transaction
For your protection, this Web site is secured with the highest level of SSL Certificate encryption.

EXHIBIT A 3

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NetworkSolutions.

Ca
1-8

| Domain Names | Web Sites & Hosting | Online Marketing | E-Mail | SSL Certificates | All Services | Developers | Education Center | Manage Account |

WHOIS Search Results

Your WHOIS Search Results

IMAGE NOT
AVAILABLE

BOOKMARK

openpvr.org

Make an instant, anonymous offer to the current domain registrant. Learn More

Make an offer to buy this domain

Now Oper

SEARCH AGA

Enter a search

e.g. networksol

Search by:
* Domain N
* IP Addres

NOTICE: Access to .ORG WHOIS information is provided to assist persons in determining the contents of a domain name registration record in the Public Interest Registry
registry database. The data in this record is provided by Public Interest Registry for informational purposes only, and Public Interest Registry does not guarantee its accuracy. This service is intended only for query-based access. You agree that you will use this data only for lawful purposes and that, under no circumstances will you use this data to: (a) allow, enable, or otherwise support the transmission by e-mail, telephone, or facsimile of mass unsolicited, commercial advertising or solicitations to entities other than the data recipient's own existing customers; or (b) enable high volume, automated, electronic processes that send queries or data to the systems of Registry Operator or any ICANN-Accredited Registrar, except as reasonably necessary to register domain names or modify existing registrations. All rights reserved. Public Interest Registry reserves the right to modify these terms at any time. By submitting this query, you agree to abide by this policy.

Domain ID:D33520584-LROR
Domain Name:OPENPVR.ORG
Created On:25-Aug-2000 04:20:33 UTC
Last Updated On:26-Aug-2008 13:16:19 UTC
Expiration Date:25-Aug-2009 04:20:33 UTC
Sponsoring Registrar:GoDaddy.com, Inc. (R91-LROR)
Status:CLIENT DELETE PROHIBITED
Status:CLIENT RENEW PROHIBITED
Status:CLIENT TRANSFER PROHIBITED
Status:CLIENT UPDATE PROHIBITED

Registrant ID:GODA-021725770
Registrant Name:Bo Wu
Registrant Organization:EnReach Technology, Inc.
Registrant Street1:4655 Old Ironsides Drive, Suite 460
Registrant Street2:
Registrant Street3:
Registrant City:Santa Clara
Registrant State/Province:California
Registrant Postal Code:95054
Registrant Country:US
Registrant Phone:+1.4089886866
Registrant Phone Ext.:
Registrant FAX:
Registrant FAX Ext.:
Registrant Email:bowu@enreach.com
Admin ID:GODA-221725770
Admin Name:Bo Wu
Admin Organization:EnReach Technology, Inc.
Admin Street1:2130 Gold Street
Admin Street2:
Admin Street3:
Admin City:San Jose
Admin State/Province:California
Admin Postal Code:95002
Admin Country:US
Admin Phone:+1.4089568200
Admin Phone Ext.:
Admin FAX:+1.4089568209
Admin FAX Ext.:
Admin Email:bowu@enreach.com
Tech ID:GODA-121725770
Tech Name:Domain Registrar
Tech Organization:Register.Com
Tech Street1:575 8th Avenue
Tech Street2:11th Floor
Tech Street3:
Tech City:New York
Tech State/Province:New York
Tech Postal Code:10018
Tech Country:US
Tech Phone:+1.9027492701
Tech Phone Ext.:
Tech FAX:+1.9027495429
Tech FAX Ext.:
Tech Email:domain-registrar@register.com
Name Server:NS1.CHINAQ.COM
Name Server:NS2.CHINAQ.COM
Name Server:
Name Server:
Name Server:
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The previous information has been obtained either directly from the registrant or a registrar of the domain name other than Network Solutions. Network Solutions, therefore, does not guarantee its accuracy or completeness.
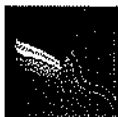
Show underlying registry data for this record

Record Type:	Domain Name
Server Type:	Indeterminate
DMOZ	no listings
YI Directory:	see listings
Secure:	No
E-commerce:	No
Traffic Ranking:	Not available
Data as of:	22-Apr-2008

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SOLUTIONS TO GET CUSTOMERS

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SOLUTIONS FOR ONLINE SECURITY

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RESOURCES

CUSTOMER SUPPORT

SEARCH FOR A DOMAIN: _____ .com ▾ Search ➔   GET

"An outstanding customer service experience"
J.D. Power and Associates

EDITORS' CHOICE
WEB HOST

#1 Shared Hosting
AWARD WINNER

PayP

SiteSafe™
$1M GUARANTEE
EXTENDED VALIDATION
VERIFY Network Solutions

100% Secure Transaction
For your protection, this Web site is secured with the highest level of SSL Certificate encryption.

EXHIBIT B

1 | J. JAMES LI (SBN 202855)
DAVID PEREZ (SBN 238136)
2 | GREENBERG TRAURIG, LLP
1900 University Avenue, Fifth Floor
3 | East Palo Alto, California 94303
Telephone: (650) 328-8500
4 | Facsimile: (650) 328-8508
Email: lij@gtlaw.com
5
Attorneys for Applicant,
6 | 5 STAR LINUX, INC.

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8 | **IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD
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10 | OPENTV, INC.,   Opposition No. 91181512

11 | Opposer,   **APPLICANT'S REQUESTS FOR**
PRODUCTION OF
12 | vs.   **DOCUMENTS, SET ONE**

13 | 5 STAR LINUX, INC.,

14 | Applicant.

15

16 | PROPOUNDING PARTY: Applicant 5 Star Linux, Inc.

17 | RESPONDING PARTY: Opposer OpenTV, Inc.

18 | SET NO.:   One

19 | TO OPPOSER AND ITS ATTORNEYS OF RECORD:

20 | Pursuant to Federal Rule of Civil Procedure 34, Applicant, 5 Star Linux, Inc., request that

21 | Opposer, OpenTV, Inc. produce the documents described below on July 14, 2008, at 9:00 a.m.,

22 | at Greenberg Traurig LLP, 1900 University Avenue, 5th Floor, East Palo Alto, CA 94303, and

23 | permit the attorneys for Applicant to inspect and copy them.

24 | This request is governed by the following Definitions and Instructions:

25 | **DEFINITIONS**

26 | 1.   "YOU," "YOUR," and "OPPOSER" means Opposer OpenTV, Inc., and includes

27 | officers, directors, employees, attorneys, authorized agents or other persons acting or purporting

28 | to act on YOUR behalf.

1   2.   "APPLICANT" means Applicant 5 Star Linux, Inc., and includes officers,

2 directors, employees, attorneys, authorized agents or other persons acting or purporting to act on

3 APPLICANT'S behalf.

4   3.   The term "DOCUMENT" has the broadest meaning accorded to that term under

5 the law, and includes, but is not limited to, any kind of written or graphic material, however

6 produced or reproduced, of any kind or description, whether sent or received or neither,

7 including originals, copies, drafts and both sides thereof, and including, but not limited to:

8 papers, writings, objects, letters, bills, memoranda, electronic mail, notes, notations, work

9 papers, reports, books, book accounts, photographs, tangible things, correspondence, reports and

10 recordings of telephone conversations, telephone logs, statements, summaries, opinions,

11 agreements, ledgers, journals, records of accounts, checks, summary of accounts, spreadsheets,

12 receipts, balance sheets, income statements, confirmation slips, questionnaires, desk calendars,

13 appointment books, diaries, graphs, test results, charts, and all of the records kept by electronic,

14 photographic or mechanical means and things similar to any of the foregoing, including

15 computer media and sound recordings, regardless of their author.

16   4.   "OPPOSITION" as used herein means YOUR Notice of Opposition, filed

17 December 26, 2007 in the United States Patent and Trademark Office Before the Trademark

18 Trial and Appeal Board.

19   5.   "OPENTV" as used herein, shall mean and include YOUR Word Marks identified

20 as OPENTV, in YOUR OPPOSITION, including but not limited to, U.S. Registration No.

21 2703881, 2703882, 2635594, and any other registrations of such a Word Mark.

22   6.   "OPENTV H2O" as used herein shall mean and include YOUR Word Mark

23 identified as OPENTV H2O, in YOUR OPPOSITION, including but not limited to, U.S.

24 Registration No. 3088215, and any other registrations of such a Word Mark.

25   7.   "OPENSTREAMER" as used herein shall mean and include YOUR Word Mark

26 identified as OEPNSTREAMER, in YOUR OPPOSITION, including but not limited to, U.S.

27 Registration No. 2641627, and any other registrations of such a Word Mark.

28 ///

8.   "OPENAUTHOR" as used herein shall mean and include YOUR Word Mark identified as OPENAUTHOR, in YOUR OPPOSITION, including but not limited to, U.S. Registration No. 2459555, and any other registrations of such a Word Mark.

9.   "OPENADVANTAGE" as used herein shall mean and include YOUR Word Mark identified as OPENADVANTAGE, in YOUR OPPOSITION, including but not limited to, U.S. Registration No. 2539307, and any other registrations of such a Word Mark.

·10.   "OPENTV PVR" as used herein shall mean and include YOUR alleged Word Mark identified as OPENTV PVR, in YOUR OPPOSITION.

11.   The "OPENTV RELEVANT TIME PERIOD" consists of the time period between March 1, 1995, through the present, and moving forward.

12.   The "OPENTV H2O RELEVANT TIME PERIOD" consists of the time period between February 10, 2002, through the present, and moving forward.

13.   The "OPENSTREAMER RELEVANT TIME PERIOD" consists of the time period between June 7, 1999, through the present, and moving forward.

14.   The "OPENAUTHOR RELEVANT TIME PERIOD" consists of the time period between April 6, 1999, through the present, and moving forward.

15.   The "OPENADVANTAGE RELEVANT TIME PERIOD" consists of the time period between May 1, 1999, through the present, and moving forward.

16.   The "OPENTV PVR RELEVANT TIME PERIOD" consists of the time period between August 1, 2005, through the present, and moving forward.

17.   "OWNERSHIP" as used herein means the registration of the alleged trademarks at issue, the process involved in registering the alleged trademarks and any other processes and/or events whereby YOU have allegedly obtained rights to the alleged trademarks at issue.

18.   "USE" as used herein means the initial or first use, the first use in commerce, and any continuing use beyond the first use and first use in commerce of the trademarks at issue in this case.

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19. "PERSON" or "PERSONS" as used herein shall mean any natural person, or any organization, business, company, firm, corporation, association, joint venture, trust or legal entity.

20. "RELATING TO," "DEMONSTRATING," "SUPPORTS," or "SUPPORTING" shall mean and include constitute, refer, reflect, discuss, show, demonstrate, or be in any way logically or factually connected with the matter discussed or identified.

21. The words "and" and "or" shall be read in the conjunctive and in the disjunctive wherever they appear, and neither of these words shall be interpreted to limit the scope of this Request.

22. The use of a verb in any tense shall be construed as the use of the verb in all other tenses.

23. The singular form of any word shall be deemed to include the plural. The plural form of any word shall be deemed to include the singular.

INSTRUCTIONS

1. Should YOU seek to withhold any DOCUMENT based upon some limitation of discovery (including but not limited to a claim of privilege), YOU shall supply a list of the DOCUMENTS for which such limitation of discovery is claimed, indicating:

    a. The identity of each document's author, writer, sender;

    b. The identity of each document's recipient, addressee, or person for whom it was intended;

    c. The date of creation or transmittal indicated on each document, or an estimate of that date, indicated as such, if no date appears on the document;

    d. The general subject matter as described on each document, or, if no such description appears, then some other description sufficient to identify the document; and,

    e. The claimed grounds for the limitation of discovery (e.g., "attorney-client privilege.")

DOCUMENTS REQUESTED

REQUEST NO. 1:

Any and all DOCUMENTS RELATING TO YOUR purported OWNERSHIP of OPENTV, as alleged in paragraph 5 of YOUR OPPOSITION.

REQUEST NO. 2:

Any and all DOCUMENTS RELATING TO YOUR purported USE of OPENTV during the OPENTV RELEVANT TIME PERIOD.

REQUEST NO. 3:

Any and all DOCUMENTS RELATING TO and SUPPORTING YOUR purported OWNERSHIP of "a family of 'OPEN' marks", as alleged in paragraph 5 of YOUR OPPOSITION.

REQUEST NO. 4:

Any and all DOCUMENTS RELATING TO YOUR purported OWNERSHIP of OPENTV H2O, as alleged in paragraph 5 of YOUR OPPOSITION.

REQUEST NO. 5:

Any and all DOCUMENTS RELATING TO YOUR purported USE of OPENTV H2O during the OPENTV H2O RELEVANT TIME PERIOD.

REQUEST NO. 6:

Any and all DOCUMENTS RELATING TO YOUR purported OWNERSHIP of OPENSTREAMER, as alleged in paragraph 5 of YOUR OPPOSITION.

REQUEST NO. 7:

Any and all DOCUMENTS RELATING TO YOUR purported USE of OPENSTREAMER during the OPENSTREAMER RELEVANT TIME PERIOD.

REQUEST NO. 8:

Any and all DOCUMENTS RELATING TO YOUR purported OWNERSHIP of OPENAUTHOR, as alleged in paragraph 5 of YOUR OPPOSITION.

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REQUEST NO. 9:

Any and all DOCUMENTS RELATING TO YOUR purported USE of OPENAUTHOR during the OPENAUTHOR RELEVANT TIME PERIOD.

REQUEST NO. 10:

Any and all DOCUMENTS RELATING TO YOUR purported OWNERSHIP of OPENADVANTAGE, as alleged in paragraph 5 of YOUR OPPOSITION.

REQUEST NO. 11:

Any and all DOCUMENTS RELATING TO YOUR purported USE of OPENADVANTAGE during the OPENADVANTAGE RELEVANT TIME PERIOD.

REQUEST NO. 12:

Any and all DOCUMENTS RELATING TO YOUR purported "common law trademark rights in the mark OPENTV PVR", as alleged in paragraph 6 of YOUR OPPOSITION.

REQUEST NO. 13:

Any and all DOCUMENTS RELATING TO YOUR purported USE of OPENTV PVR during the OPENTV PVR RELEVANT TIME PERIOD, as alleged in paragraph 6 of YOUR OPPOSITION.

REQUEST NO. 14:

Any and all DOCUMENTS RELATING TO YOUR purported "efforts and the expenditure of considerable sums of money in connection with [YOUR] advertising, promotional and market services," RELATING TO OPENTV, as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 15:

Any and all DOCUMENTS RELATING TO YOUR purported "valuable goodwill and consumer recognition" of OPENTV, as alleged in paragraph 7 of YOUR OPPOSITION..

REQUEST NO. 16:

Any and all DOCUMENTS DEMONSTRATING that OPENTV is "distinctive and famous", as alleged in paragraph 7 of YOUR OPPOSITION.

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REQUEST NO. 17:

Any and all DOCUMENTS RELATING TO YOUR purported "efforts and the expenditure of considerable sums of money in connection with [YOUR] advertising, promotional and market services," RELATING TO OPENTV H2O, as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 18:

Any and all DOCUMENTS RELATING TO YOUR purported "valuable goodwill and consumer recognition" of OPENTV H2O, as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 19:

Any and all DOCUMENTS DEMONSTRATING that OPENTV H2O is "distinctive and famous", as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 20:

Any and all DOCUMENTS RELATING TO YOUR purported "efforts and the expenditure of considerable sums of money in connection with [YOUR] advertising, promotional and market services," RELATING TO OPENSTREAMER, as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 21:

Any and all DOCUMENTS RELATING TO YOUR purported "valuable goodwill and consumer recognition" of OPENSTREAMER, as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 22:

Any and all DOCUMENTS DEMONSTRATING that OPENSTREAMER is "distinctive and famous", as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 23:

Any and all DOCUMENTS RELATING TO YOUR purported "efforts and the expenditure of considerable sums of money in connection with [YOUR] advertising, promotional and market services," RELATING TO OPENAUTHOR, as alleged in paragraph 7 of YOUR OPPOSITION.

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REQUEST NO. 24:

Any and all DOCUMENTS RELATING TO YOUR purported "valuable goodwill and consumer recognition" of OPENAUTHOR, as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 25:

Any and all DOCUMENTS DEMONSTRATING that OPENAUTHOR is "distinctive and famous", as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 26:

Any and all DOCUMENTS RELATING TO YOUR purported "efforts and the expenditure of considerable sums of money in connection with [YOUR] advertising, promotional and market services," RELATING TO OPENADVANTAGE, as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 27:

Any and all DOCUMENTS RELATING TO YOUR purported "valuable goodwill and consumer recognition" of OPENADVANTAGE, as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 28:

Any and all DOCUMENTS DEMONSTRATING that OPENADVANTAGE is "distinctive and famous", as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 29:

Any and all DOCUMENTS RELATING TO YOUR purported "efforts and the expenditure of considerable sums of money in connection with [YOUR] advertising, promotional and market services," RELATING TO OPENTV PVR, as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 30:

Any and all DOCUMENTS RELATING TO YOUR purported "valuable goodwill and consumer recognition" of OPENTV PVR, as alleged in paragraph 7 of YOUR OPPOSITION.

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REQUEST NO. 31:

Any and all DOCUMENTS DEMONSTRATING that OPENTV PVR is "distinctive and famous", as alleged in paragraph 7 of YOUR OPPOSITION.

REQUEST NO. 32:

Any and all DOCUMENTS DEMONSTRATING that YOUR alleged "common law rights in the OPENTV PVR mark also precede Applicant's Filing Date", as alleged in paragraph 11 of YOUR OPPOSITION.

REQUEST NO. 33:

Any and all DOCUMENTS DEMONSTRATING that OPENTV is "distinctive for [YOUR] Goods and Services", as alleged in paragraph 12 of YOUR OPPOSITION.

REQUEST NO. 34:

Any and all DOCUMENTS DEMONSTRATING that OPENTV H2O is "distinctive for [YOUR] Goods and Services", as alleged in paragraph 12 of YOUR OPPOSITION.

REQUEST NO. 35:

Any and all DOCUMENTS DEMONSTRATING that OPENSTREAMER is "distinctive for [YOUR] Goods and Services", as alleged in paragraph 12 of YOUR OPPOSITION.

REQUEST NO. 36:

Any and all DOCUMENTS DEMONSTRATING that OPENAUTHOR is "distinctive for [YOUR] Goods and Services", as alleged in paragraph 12 of YOUR OPPOSITION.

REQUEST NO. 37:

Any and all DOCUMENTS DEMONSTRATING that OPENADVANTAGE is "distinctive for [YOUR] Goods and Services", as alleged in paragraph 12 of YOUR OPPOSITION.

REQUEST NO. 38:

Any and all DOCUMENTS DEMONSTRATING that OPENTV PVR is "distinctive for [YOUR] Goods and Services", as alleged in paragraph 12 of YOUR OPPOSITION.

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REQUEST NO. 39:

Any and all DOCUMENTS DEMONSTRATING that "Applicant's Goods ... are related to one or more of Opposer's Goods and Services", as alleged in paragraph 13 of YOUR OPPOSITION.

REQUEST NO. 40:

Any and all DOCUMENTS DEMONSTRATING that "Applicant's Services ... are related to one or more of Opposer's Goods and Services", as alleged in paragraph 14 of YOUR OPPOSITION.

REQUEST NO. 41:

Any and all DOCUMENTS DEMONSTRATING that APPLICANT'S Mark "resembles [OPENTV]", as alleged in paragraph 16 of YOUR OPPOSITION.

REQUEST NO. 42:

Any and all DOCUMENTS DEMONSTRATING that APPLICANT'S Mark's resemblance to OPENTV is "likely, when applied to Applicant's Goods and Services, to cause confusion, to cause mistaske, or to deceive as to the origin, sponsorship, or approval of Applicant's Goods and Services", as alleged in paragraph 16 of YOUR OPPOSITION.

REQUEST NO. 43:

Any and all DOCUMENTS DEMONSTRATING the "injury to Opposer, the trade and the public" that would result from the APPLICANT'S Mark's resemblance to OPENTV, as alleged in paragraph 16 of YOUR OPPOSITION.

REQUEST NO. 44:

Any and all DOCUMENTS DEMONSTRATING that APPLICANT'S Mark "resembles [OPENTV H2O]", as alleged in paragraph 16 of YOUR OPPOSITION.

REQUEST NO. 45:

Any and all DOCUMENTS DEMONSTRATING that APPLICANT'S Mark's resemblance to OPENTV H2O is "likely, when applied to Applicant's Goods and Services, to cause confusion, to cause mistaske, or to deceive as to the origin, sponsorship, or approval of Applicant's Goods and Services", as alleged in paragraph 16 of YOUR OPPOSITION.

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1 **REQUEST NO. 46:**

2   Any and all DOCUMENTS DEMONSTRATING the "injury to Opposer, the trade and

3 the public" that would result from the APPLICANT'S Mark's resemblance to OPENTV H2O, as

4 alleged in paragraph 16 of YOUR OPPOSITION.

5 **REQUEST NO. 47:**

6   Any and all DOCUMENTS DEMONSTRATING that APPLICANT'S Mark "resembles

7 [OPENSTREAMER]", as alleged in paragraph 16 of YOUR OPPOSITION.

8 **REQUEST NO. 48:**

9   Any and all DOCUMENTS DEMONSTRATING that APPLICANT'S Mark's

10 resemblance to OPENSTREAMER is "likely, when applied to Applicant's Goods and Services,

11 to cause confusion, to cause mistaske, or to deceive as to the origin, sponsorship, or approval of

12 Applicant's Goods and Services", as alleged in paragraph 16 of YOUR OPPOSITION.

13 **REQUEST NO. 49:**

14   Any and all DOCUMENTS DEMONSTRATING the "injury to Opposer, the trade and

15 the public" that would result from the APPLICANT'S Mark's resemblance to

16 OPENSTREAMER, as alleged in paragraph 16 of YOUR OPPOSITION.

17 **REQUEST NO. 50:**

18   Any and all DOCUMENTS DEMONSTRATING that APPLICANT'S Mark "resembles

19 [OPENAUTHOR]", as alleged in paragraph 16 of YOUR OPPOSITION.

20 **REQUEST NO. 51:**

21   Any and all DOCUMENTS DEMONSTRATING that APPLICANT'S Mark's

22 resemblance to OPENAUTHOR is "likely, when applied to Applicant's Goods and Services, to

23 cause confusion, to cause mistaske, or to deceive as to the origin, sponsorship, or approval of

24 Applicant's Goods and Services", as alleged in paragraph 16 of YOUR OPPOSITION.

25 **REQUEST NO. 52:**

26   Any and all DOCUMENTS DEMONSTRATING the "injury to Opposer, the trade and

27 the public" that would result from the APPLICANT'S Mark's resemblance to OPENAUTHOR,

28 as alleged in paragraph 16 of YOUR OPPOSITION.

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REQUEST NO. 53:

Any and all DOCUMENTS DEMONSTRATING that APPLICANT'S Mark "resembles [OPENADVANTAGE]", as alleged in paragraph 16 of YOUR OPPOSITION.

REQUEST NO. 54:

Any and all DOCUMENTS DEMONSTRATING that APPLICANT'S Mark's resemblance to OPENADVANTAGE is "likely, when applied to Applicant's Goods and Services, to cause confusion, to cause mistaske, or to deceive as to the origin, sponsorship, or approval of Applicant's Goods and Services", as alleged in paragraph 16 of YOUR OPPOSITION.

REQUEST NO. 55:

Any and all DOCUMENTS DEMONSTRATING the "injury to Opposer, the trade and the public" that would result from the APPLICANT'S Mark's resemblance to OPENADVANTAGE, as alleged in paragraph 16 of YOUR OPPOSITION.

REQUEST NO. 56:

Any and all DOCUMENTS DEMONSTRATING that APPLICANT'S Mark "resembles [OPENTV]"PVR, as alleged in paragraph 16 of YOUR OPPOSITION.

REQUEST NO. 57:

Any and all DOCUMENTS DEMONSTRATING that APPLICANT'S Mark's resemblance to OPENTV PVR is "likely, when applied to Applicant's Goods and Services, to cause confusion, to cause mistaske, or to deceive as to the origin, sponsorship, or approval of Applicant's Goods and Services", as alleged in paragraph 16 of YOUR OPPOSITION.

REQUEST NO. 58:

Any and all DOCUMENTS DEMONSTRATING the "injury to Opposer, the trade and the public" that would result from the APPLICANT'S Mark's resemblance to OPENTV PVR, as alleged in paragraph 16 of YOUR OPPOSITION.

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REQUEST NO. 59:

Any and all DOCUMENTS DEMONSTRATING that "[t]he registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with [OPENTV]", as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 60:

Any and all DOCUMENTS DEMONSTRATING that "[a]ny defect, objection or fault found with Applicant's Goods or Services marketed or sold under Applicant's Mark will reflect upon and seriously injure the valuable reputation that Opposer has established for [OPENTV]", as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 61:

Any and all DOCUMENTS DEMONSTRATING that YOU have established a "valuable reputation" for OPENTV, as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 62:

Any and all DOCUMENTS DEMONSTRATING that "[t]he registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with [OPENTV H2O]", as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 63:

Any and all DOCUMENTS DEMONSTRATING that "[a]ny defect, objection or fault found with Applicant's Goods or Services marketed or sold under Applicant's Mark will reflect upon and seriously injure the valuable reputation that Opposer has established for [OPENTV H2O]", as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 64:

Any and all DOCUMENTS DEMONSTRATING that YOU have established a "valuable reputation" for OPENTV H2O, as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 65:

Any and all DOCUMENTS DEMONSTRATING that "[t]he registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with [OPENSTREAMER]", as alleged in paragraph 17 of YOUR OPPOSITION.

13

REQUEST NO. 66:

Any and all DOCUMENTS DEMONSTRATING that "[a]ny defect, objection or fault found with Applicant's Goods or Services marketed or sold under Applicant's Mark will reflect upon and seriously injure the valuable reputation that Opposer has established for [OPENSTREAMER]", as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 67:

Any and all DOCUMENTS DEMONSTRATING that YOU have established a "valuable reputation" for OPENSTREAMER, as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 68:

Any and all DOCUMENTS DEMONSTRATING that "[t]he registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with [OPENAUTHOR]", as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 69:

Any and all DOCUMENTS DEMONSTRATING that "[a]ny defect, objection or fault found with Applicant's Goods or Services marketed or sold under Applicant's Mark will reflect upon and seriously injure the valuable reputation that Opposer has established for [OPENAUTHOR]", as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 70:

Any and all DOCUMENTS DEMONSTRATING that YOU have established a "valuable reputation" for OPENAUTHOR, as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 71:

Any and all DOCUMENTS DEMONSTRATING that "[t]he registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with [OPENADVANTAGE]", as alleged in paragraph 17 of YOUR OPPOSITION.

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REQUEST NO. 72:

Any and all DOCUMENTS DEMONSTRATING that "[a]ny defect, objection or fault found with Applicant's Goods or Services marketed or sold under Applicant's Mark will reflect upon and seriously injure the valuable reputation that Opposer has established for [OPENADVANTAGE]", as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 73:

Any and all DOCUMENTS DEMONSTRATING that YOU have established a "valuable reputation" for OPENADVANTAGE, as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 74:

Any and all DOCUMENTS DEMONSTRATING that "[t]he registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with [OPENTV PVR]", as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 75:

Any and all DOCUMENTS DEMONSTRATING that "[a]ny defect, objection or fault found with Applicant's Goods or Services marketed or sold under Applicant's Mark will reflect upon and seriously injure the valuable reputation that Opposer has established for [OPENTV PVR]", as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 76:

Any and all DOCUMENTS DEMONSTRATING that YOU have established a "valuable reputation" for OPENTV PVR, as alleged in paragraph 17 of YOUR OPPOSITION.

REQUEST NO. 77:

Any and all DOCUMENTS DEMONSTRATING that "[r]egistration of Applicant's Mark would also damage Opposer because such registration would grant a statutory exclusive right to Applicant in violation and derogation of the prior and superior rights of Opposer and would unduly narrow the scope of protection afforded to [OPENTV]", as alleged in paragraph 18 of YOUR OPPOSITION.

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REQUEST NO. 78:

Any and all DOCUMENTS DEMONSTRATING that "[r]egistration of Applicant's Mark would also damage Opposer because such registration would grant a statutory exclusive right to Applicant in violation and derogation of the prior and superior rights of Opposer and would unduly narrow the scope of protection afforded to [OPENTV H2O]", as alleged in paragraph 18 of YOUR OPPOSITION.

REQUEST NO. 79:

Any and all DOCUMENTS DEMONSTRATING that "[r]egistration of Applicant's Mark would also damage Opposer because such registration would grant a statutory exclusive right to Applicant in violation and derogation of the prior and superior rights of Opposer and would unduly narrow the scope of protection afforded to [OPENSTREAMER]", as alleged in paragraph 18 of YOUR OPPOSITION.

REQUEST NO. 80:

Any and all DOCUMENTS DEMONSTRATING that "[r]egistration of Applicant's Mark would also damage Opposer because such registration would grant a statutory exclusive right to Applicant in violation and derogation of the prior and superior rights of Opposer and would unduly narrow the scope of protection afforded to [OPENAUTHOR]", as alleged in paragraph 18 of YOUR OPPOSITION.

REQUEST NO. 81:

Any and all DOCUMENTS DEMONSTRATING that "[r]egistration of Applicant's Mark would also damage Opposer because such registration would grant a statutory exclusive right to Applicant in violation and derogation of the prior and superior rights of Opposer and would unduly narrow the scope of protection afforded to [OPENADVANTAGE]", as alleged in paragraph 18 of YOUR OPPOSITION.

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REQUEST NO. 82:

Any and all DOCUMENTS DEMONSTRATING that "[r]egistration of Applicant's Mark would also damage Opposer because such registration would grant a statutory exclusive right to Applicant in violation and derogation of the prior and superior rights of Opposer and would unduly narrow the scope of protection afforded to [OPENTV PVR]", as alleged in paragraph 18 of YOUR OPPOSITION.

REQUEST NO. 83:

Any and all DOCUMENTS DEMONSTRATING that "[r]egistration of Applicant's Mark is likely to lessen the capacity of [OPENTV] to identify and distinguish Opposer's Goods and Services and is likely to dilute the strength of [OPENTV]", as alleged in paragraph 19 of YOUR OPPOSITION.

REQUEST NO. 84:

Any and all DOCUMENTS DEMONSTRATING that "[r]egistration of Applicant's Mark is likely to lessen the capacity of [OPENTV H2O] to identify and distinguish Opposer's Goods and Services and is likely to dilute the strength of [OPENTV H2O]", as alleged in paragraph 19 of YOUR OPPOSITION.

REQUEST NO. 85:

Any and all DOCUMENTS DEMONSTRATING that "[r]egistration of Applicant's Mark is likely to lessen the capacity of [OPENSTREAMER] to identify and distinguish Opposer's Goods and Services and is likely to dilute the strength of [OPENSTREAMER]", as alleged in paragraph 19 of YOUR OPPOSITION.

REQUEST NO. 86:

Any and all DOCUMENTS DEMONSTRATING that "[r]egistration of Applicant's Mark is likely to lessen the capacity of [OPENAUTHOR] to identify and distinguish Opposer's Goods and Services and is likely to dilute the strength of [OPENAUTHOR]", as alleged in paragraph 19 of YOUR OPPOSITION.

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1   **REQUEST NO. 87:**

2   Any and all DOCUMENTS DEMONSTRATING that "[r]egistration of Applicant's

3   Mark is likely to lessen the capacity of [OPENADVANTAGE] to identify and distinguish

4   Opposer's Goods and Services and is likely to dilute the strength of [OPENADVANTAGE]", as

5   alleged in paragraph 19 of YOUR OPPOSITION.

6   **REQUEST NO. 88:**

7   Any and all DOCUMENTS DEMONSTRATING that "[r]egistration of Applicant's

8   Mark is likely to lessen the capacity of [OPENTV PVR] to identify and distinguish Opposer's

9   Goods and Services and is likely to dilute the strength of [OPENTV PVR]", as alleged in

10   paragraph 19 of YOUR OPPOSITION.

11   **REQUEST NO. 89:**

12   Any and all DOCUMENTS RELATING TO any survey conducted by YOU, or

13   otherwise in YOUR possession, custody or control RELATING TO determining or establishing

14   proof of a likelihood of confusion between APPLICANT'S Goods and Services and YOUR

15   Goods and Services.

16   **REQUEST NO. 90:**

17   Any and all DOCUMENTS SUPPORTING a finding of a likelihood of confusion

18   between APPLICANT'S Goods and Services and YOUR Goods and Services.

19   **REQUEST NO. 91:**

20   Any and all DOCUMENTS SUPPORTING a finding of actual confusion between

21   APPLICANT'S Goods and Services and YOUR Goods and Services.

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23   DATED: June 9, 2008   GREENBERG TRAURIG, LLP

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25   DAVID PEREZ

26   Attorneys for Applicant, 5 STAR LINUX, INC.

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PROOF OF SERVICE

     I, Cathy Sandifer, declare that I am a citizen of the United States, over the age of eighteen years and not a party to the within action. I am an employee of GREENBERG TRAURIG, LLP, and my business address is 1900 University Avenue, Fifth Floor, East Palo Alto, CA 94303. On June 9, 2008, I served the following documents:

APPLICANT'S REQUEST FOR PRODUCTION OF DOCUMENTS, SET ONE

☐   by transmitting via **FACSIMILE** the document(s) listed above to the fax numbers) set forth below, or as stated on the attached service list, on this date at approximately _____, from the sending facsimile machine telephone number of 650-289-7893. The transmission was reported as complete and without error by the machine. Pursuant to California Rules of Court, Rule 2008(e)(4), I caused the machine to print a transmission record of the transmission, a copy of which is attached to the original of this declaration. The transmission report was properly issued by the transmitting facsimile machine.

☒   by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the **UNITED STATES MAIL** at East Palo Alto, California, addressed as set forth below.

☐   by **OVERNIGHT MAIL** by placing the document(s) listed above in a sealed overnight mail envelope with postage thereon fully prepaid, addressed as set forth below.

☐   (BY MESSENGER PERSONAL SERVICE). I caused delivery of such envelope by hand via courier service to the offices of the addressee.

Grace Han Stanton, Esq.
Perkins Coie LLP
1201 Third Ave., Ste. 4800
Seattle, WA 98101

    I am readily familiar with the business practice of my place of employment in respect to the collection and processing of correspondence, pleadings and notices for mailing with United States Postal Service/Express Mail, Federal Express and other overnight mail services. The foregoing sealed envelope was placed for collection and mailing this date consistent with the ordinary business practice of my place of employment, so that it will be picked up this date with postage thereon fully prepaid at East Palo Alto, California, in the ordinary course of such business.

    I declare under penalty of perjury that the foregoing is true and correct. Executed on June 9, 2008, at East Palo Alto, California.

Cathy Sandifer

EXHIBIT C

J. JAMES LI (SBN 202855)
DAVID PEREZ (SBN 238136)
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Attorneys for Applicant,
5 STAR LINUX, INC.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

OPENTV, INC., Opposer, vs. 5 STAR LINUX, INC., Applicant.	Opposition No. 91181512 **APPLICANT'S SPECIAL INTERROGATORIES, SET ONE**

PROPOUNDING PARTY: Applicant 5 Star Linux, Inc.

RESPONDING PARTY: Opposer OpenTV, Inc.

SET NO.:   One

TO OPPOSER AND ITS ATTORNEYS OF RECORD:

YOU ARE HEREBY REQUESTED, pursuant to Federal Rule of Civil Procedure 34, to provide plaintiff with a response to each interrogatory.

PLEASE TAKE FURTHER NOTICE that, pursuant to the provisions of Federal Rule of Civil Procedure 33(b)(2) and (5), written responses to these interrogatories, subscribed under oath, are required within thirty (30) days from the date of service of these interrogatories.

DEFINITIONS

1.   "YOU" and "YOUR" and "OPPOSER" means Opposer OpenTV, Inc., and includes officers, directors, employees, attorneys, authorized agents or other persons acting or purporting to act on YOUR behalf.

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2. "APPLICANT" means Applicant 5 Star Linux, Inc., and includes officers, directors, employees, attorneys, authorized agents or other persons acting or purporting to act on APPLICANT'S behalf.

3. The term "DOCUMENT" has the broadest meaning accorded to that term under the law, and includes, but is not limited to, any kind of written or graphic material, however produced or reproduced, of any kind or description, whether sent or received or neither, including originals, copies, drafts and both sides thereof, and including, but not limited to: papers, writings, objects, letters, bills, memoranda, electronic mail, notes, notations, work papers, reports, books, book accounts, photographs, tangible things, correspondence, reports and recordings of telephone conversations, telephone logs, statements, summaries, opinions, agreements, ledgers, journals, records of accounts, checks, summary of accounts, spreadsheets, receipts, balance sheets, income statements, confirmation slips, questionnaires, desk calendars, appointment books, diaries, graphs, test results, charts, and all of the records kept by electronic, photographic or mechanical means and things similar to any of the foregoing, including computer media and sound recordings, regardless of their author.

4. "OPPOSITION" as used herein means YOUR Notice of Opposition, filed December 26, 2007 in the United States Patent and Trademark Office Before the Trademark Trial and Appeal Board.

5. "OPENTV" as used herein, except for when used in a quotation from YOUR OPPOSITION, shall mean and include YOUR Word Marks identified as OPENTV, in YOUR OPPOSITION, including but not limited to, U.S. Registration No. 2703881, 2703882, 2635594, and any other registrations of such a Word Mark.

6. "OPENTV H2O" as used herein shall mean and include YOUR Word Mark identified as OPENTV H2O, in YOUR OPPOSITION, including but not limited to, U.S. Registration No. 3088215, and any other registrations of such a Word Mark.

7. "OPENSTREAMER" as used herein shall mean and include YOUR Word Mark identified as OEPNSTREAMER, in YOUR OPPOSITION, including but not limited to, U.S. Registration No. 2641627, and any other registrations of such a Word Mark.

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1   8.   "OPENAUTHOR" as used herein shall mean and include YOUR Word Mark

2   identified as OPENAUTHOR, in YOUR OPPOSITION, including but not limited to, U.S.

3   Registration No. 2459555, and any other registrations of such a Word Mark.

4   9.   "OPENADVANTAGE" as used herein shall mean and include YOUR Word

5   Mark identified as OPENADVANTAGE, in YOUR OPPOSITION, including but not limited to,

6   U.S. Registration No. 2539307, and any other registrations of such a Word Mark.

7   10.   "OPENTV PVR" as used herein shall mean and include YOUR alleged Word

8   Mark identified as OPENTV PVR, in YOUR OPPOSITION.

9   11.   "PERSON" or "PERSONS" as used herein shall mean any natural person, or any

10   organization, business, company, firm, corporation, association, joint venture, trust or legal

11   entity.

12   12.   A request that YOU "IDENTIFY" something shall require that YOU give detailed

13   information in response as to the date, time, and location of an event, or other detailed facts

14   relevant to the request.

15   13.   "FACTS" shall mean and include legal bases and events.

16   14.   "SUPPORT," "SUPPORTS," "SUPPORTING" or "RELATING TO" shall mean

17   and include evidence, constitute, refer, reflect, discuss, show, demonstrate, evidence or be in any

18   way logically or factually connected with the matter discussed or identified.

19   15.   The words "and" and "or" shall be read in the conjunctive and in the disjunctive

20   wherever they appear, and neither of these words shall be interpreted to limit the scope of this

21   Request.

22   16.   The use of a verb in any tense shall be construed as the use of the verb in all other

23   tenses.

24   17.   The singular form of any word shall be deemed to include the plural. The plural

25   form of any word shall be deemed to include the singular.

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INTERROGATORIES

INTERROGATORY NO. 1:

State all FACTS that SUPPORT YOUR contention in paragraph 5 of YOUR OPPOSITION, that YOU allegedly own "a family of 'OPEN' marks."

INTERROGATORY NO. 2:

IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU believe SUPPORTS YOUR contention in paragraph 5 of YOUR OPPOSITION, that YOU allegedly own "a family of 'OPEN' marks."

INTERROGATORY NO. 3:

IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR contention in paragraph 5 of YOUR OPPOSITION, that YOU allegedly own "a family of 'OPEN' marks."

INTERROGATORY NO. 4:

State all FACTS that SUPPORT YOUR contention that YOU allegedly OWN the mark OPENTV.

INTERROGATORY NO. 5:

IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU believe SUPPORTS YOUR contention that YOU allegedly OWN the mark OPENTV.

INTERROGATORY NO. 6:

IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR contention that YOU allegedly OWN the mark OPENTV.

INTERROGATORY NO. 7:

State all FACTS that SUPPORT YOUR contention that YOU allegedly OWN the mark OPENTV H2O.

INTERROGATORY NO. 8:

IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU believe SUPPORTS YOUR contention that YOU allegedly OWN the mark OPENTV H2O.

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INTERROGATORY NO. 9:

IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR contention that YOU allegedly OWN the mark OPENTV H2O.

INTERROGATORY NO. 10:

State all FACTS that SUPPORT YOUR contention that YOU allegedly OWN the mark OPENSTREAMER.

INTERROGATORY NO. 11:

IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU believe SUPPORTS YOUR contention that YOU allegedly OWN the mark OPENSTREAMER.

INTERROGATORY NO. 12:

IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR contention that YOU allegedly OWN the mark OPENSTREAMER.

INTERROGATORY NO. 13:

State all FACTS that SUPPORT YOUR contention that YOU allegedly OWN the mark OPENAUTHOR.

INTERROGATORY NO. 14:

IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU believe SUPPORTS YOUR contention that YOU allegedly OWN the mark OPENAUTHOR.

INTERROGATORY NO. 15:

IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR contention that YOU allegedly OWN the mark OPENAUTHOR.

INTERROGATORY NO. 16:

State all FACTS that SUPPORT YOUR contention that YOU allegedly OWN the mark OPENADVANTAGE.

INTERROGATORY NO. 17:

IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU believe SUPPORTS YOUR contention that YOU allegedly OWN the mark OPENADVANTAGE.

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1 | **INTERROGATORY NO. 18:**

2   IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR

3 contention that YOU allegedly OWN the mark OPENADVANTAGE.

4 | **INTERROGATORY NO. 19:**

5   State all FACTS that SUPPORT YOUR contention that YOU allegedly OWN the mark

6 OPENTV PVR.

7 | **INTERROGATORY NO. 20:**

8   IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU

9 believe SUPPORTS YOUR contention that YOU allegedly OWN the mark OPENTV PVR.

10 | **INTERROGATORY NO. 21:**

11   IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR

12 contention that YOU allegedly OWN the mark OPENTV PVR.

13 | **INTERROGATORY NO. 22:**

14   State all FACTS that SUPPORT YOUR contention in paragraph 6 of YOUR

15 OPPOSITION, that "Opposer also has common law trademark rights in the mark OPENTV

16 PVR, which it has used in conjunction with its products and services since September, 2005."

17 | **INTERROGATORY NO. 23:**

18   IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU

19 believe SUPPORTS YOUR contention in paragraph 6 of YOUR OPPOSITION, that "Opposer

20 also has common law trademark rights in the mark OPENTV PVR, which it has used in

21 conjunction with its products and services since September, 2005."

22 | **INTERROGATORY NO. 24:**

23   IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR

24 contention in paragraph 6 of YOUR OPPOSITION, that "Opposer also has common law

25 trademark rights in the mark OPENTV PVR, which it has used in conjunction with its products

26 and services since September, 2005."

27   ///

28   ///

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INTERROGATORY NO. 25:

State all FACTS that SUPPORT YOUR contention in paragraph 7 of YOUR OPPOSITION, that "Through its efforts and the expenditure of considerable sums of money in connection with its advertising, promotional and market services, Opposer has developed valuable goodwill and consumer recognition in Opposer's Marks. As a result, Opposer's marks are distinctive and famous."

INTERROGATORY NO. 26:

IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU believe SUPPORTS YOUR contention in paragraph 7 of YOUR OPPOSITION, that "Through its efforts and the expenditure of considerable sums of money in connection with its advertising, promotional and market services, Opposer has developed valuable goodwill and consumer recognition in Opposer's Marks. As a result, Opposer's marks are distinctive and famous."

INTERROGATORY NO. 27:

IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR contention in paragraph 7 of YOUR OPPOSITION, that "Through its efforts and the expenditure of considerable sums of money in connection with its advertising, promotional and market services, Opposer has developed valuable goodwill and consumer recognition in Opposer's Marks. As a result, Opposer's marks are distinctive and famous."

INTERROGATORY NO. 28:

State all FACTS that SUPPORT YOUR contention in paragraph 11 of YOUR OPPOSITION, that "On information and belief, there is no issue concerning priority. Opposer's Marks include registrations for OPENTV that were both filed and used in commerce prior to Applicant's Filing Date. Opposer's common law rights in the OPENTV PVR mark also precede Applicant's Filing Date."

INTERROGATORY NO. 29:

IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU believe SUPPORTS YOUR contention in paragraph 11 of YOUR OPPOSITION, that "On information and belief, there is no issue concerning priority. Opposer's Marks include

7

1 registrations for OPENTV that were both filed and used in commerce prior to Applicant's Filing

2 Date. Opposer's common law rights in the OPENTV PVR mark also precede Applicant's Filing

3 Date."

4 **INTERROGATORY NO. 30:**

5   IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR

6 contention in paragraph 11 of YOUR OPPOSITION, that "On information and belief, there is no

7 issue concerning priority. Opposer's Marks include registrations for OPENTV that were both

8 filed and used in commerce prior to Applicant's Filing Date. Opposer's common law rights in

9 the OPENTV PVR mark also precede Applicant's Filing Date."

10 **INTERROGATORY NO. 31:**

11   State all FACTS that SUPPORT YOUR contention in paragraph 12 of YOUR

12 OPPOSITION, that "Opposer's Marks are distinctive for Opposer's Goods and Services."

13 **INTERROGATORY NO. 32:**

14   IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU

15 believe SUPPORTS YOUR contention in paragraph 12 of YOUR OPPOSITION, that

16 "Opposer's Marks are distinctive for Opposer's Goods and Services."

17 **INTERROGATORY NO. 33:**

18   IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR

19 contention in paragraph 12 of YOUR OPPOSITION, that "Opposer's Marks are distinctive for

20 Opposer's Goods and Services."

21 **INTERROGATORY NO. 34:**

22   State all FACTS that SUPPORT YOUR contention in paragraph 13 of YOUR

23 OPPOSITION, that "Applicant's Goods, which include video receivers, signal decoder boxes,

24 television set-top boxes, signal converters, computer client-server software for use in delivering,

25 receiving and managing integrated voice, video and data from the Internet to display units and

26 televisions, and computer software for use in operating telecommunications devices are related

27 to one or more of Opposer's Goods and Services."

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8

1 **INTERROGATORY NO. 35:**

2   IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU

3 believe SUPPORTS YOUR contention in paragraph 13 of YOUR OPPOSITION, that

4 "Applicant's Goods, which include video receivers, signal decoder boxes, television set-top

5 boxes, signal converters, computer client-server software for use in delivering, receiving and

6 managing integrated voice, video and data from the Internet to display units and televisions, and

7 computer software for use in operating telecommunications devices are related to one or more of

8 Opposer's Goods and Services."

9 **INTERROGATORY NO. 36:**

10   IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR

11 contention in paragraph 13 of YOUR OPPOSITION, that "Applicant's Goods, which include

12 video receivers, signal decoder boxes, television set-top boxes, signal converters, computer

13 client-server software for use in delivering, receiving and managing integrated voice, video and

14 data from the Internet to display units and televisions, and computer software for use in operating

15 telecommunications devices are related to one or more of Opposer's Goods and Services."

16 **INTERROGATORY NO. 37:**

17   State all FACTS that SUPPORT YOUR contention in paragraph 14 of YOUR

18 OPPOSITION, that "Applicant's Services, which include broadcasting programs via computer

19 networks; electronic transmission of messages and data, delivery of messages via computer

20 networks; video broadcasting and messaging services; video-on-demand transmission services,

21 providing multiple-user access to a global computer information network; and providing

22 consulting in the field of telecommunications are related to one or more of Opposer's Goods and

23 Services."

24 **INTERROGATORY NO. 38:**

25   IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU

26 believe SUPPORTS YOUR contention in paragraph 14 of YOUR OPPOSITION, that

27 "Applicant's Services, which include broadcasting programs via computer networks; electronic

28 transmission of messages and data, delivery of messages via computer networks; video

<center>9</center>

1 | broadcasting and messaging services; video-on-demand transmission services, providing

2 | multiple-user access to a global computer information network; and providing consulting in the

3 | field of telecommunications are related to one or more of Opposer's Goods and Services."

4 | **INTERROGATORY NO. 39:**

5 | IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR

6 | contention in paragraph 14 of YOUR OPPOSITION, that "Applicant's Services, which include

7 | broadcasting programs via computer networks; electronic transmission of messages and data,

8 | delivery of messages via computer networks; video broadcasting and messaging services; video-

9 | on-demand transmission services, providing multiple-user access to a global computer

10 | information network; and providing consulting in the field of telecommunications are related to

11 | one or more of Opposer's Goods and Services."

12 | **INTERROGATORY NO. 40:**

13 | State all FACTS that SUPPORT YOUR contention in paragraph 15 of YOUR

14 | OPPOSITION, that "On information and belief, Opposer's Goods and Services and Applicant's

15 | Goods and Services may be provided to the same types of consumers through the same channels

16 | of trade."

17 | **INTERROGATORY NO. 41:**

18 | IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU

19 | believe SUPPORTS YOUR contention in paragraph 15 of YOUR OPPOSITION, that "On

20 | information and belief, Opposer's Goods and Services and Applicant's Goods and Services may

21 | be provided to the same types of consumers through the same channels of trade."

22 | **INTERROGATORY NO. 42:**

23 | IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR

24 | contention in paragraph 15 of YOUR OPPOSITION, that "On information and belief, Opposer's

25 | Goods and Services and Applicant's Goods and Services may be provided to the same types of

26 | consumers through the same channels of trade."

27 | ///

28 | ///

INTERROGATORY NO. 43:

State all FACTS that SUPPORT YOUR contention in paragraph 16 of YOUR OPPOSITION, that "Applicant's Mark so resembles Opposer's Marks as to be likely, when applied to Applicant's Goods and Services, to cause confusion, to cause mistake, or to deceive as to the origin, sponsorship, or approval of Applicant's Goods and Services, with consequent injury to Opposer, the trade and the public."

INTERROGATORY NO. 44:

IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU believe SUPPORTS YOUR contention in paragraph 16 of YOUR OPPOSITION, that "Applicant's Mark so resembles Opposer's Marks as to be likely, when applied to Applicant's Goods and Services, to cause confusion, to cause mistake, or to deceive as to the origin, sponsorship, or approval of Applicant's Goods and Services, with consequent injury to Opposer, the trade and the public."

INTERROGATORY NO. 45:

IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR contention in paragraph 16 of YOUR OPPOSITION, that "Applicant's Mark so resembles Opposer's Marks as to be likely, when applied to Applicant's Goods and Services, to cause confusion, to cause mistake, or to deceive as to the origin, sponsorship, or approval of Applicant's Goods and Services, with consequent injury to Opposer, the trade and the public."

INTERROGATORY NO. 46:

State all FACTS that SUPPORT YOUR contention in paragraph 17 of YOUR OPPOSITION, that "The registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with Opposer's Mark. Any defect, objection or fault found with Applicant's Goods or Services marketed or sold under Applicant's Mark will reflect upon and seriously injure the valuable reputation that Opposer has established for the Opposer's Goods and Services. Therefore, the registration of Applicant's Mark would damage and injure Opposer."

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INTERROGATORY NO. 47:

IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU believe SUPPORTS YOUR contention in paragraph 17 of YOUR OPPOSITION, that "The registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with Opposer's Mark. Any defect, objection or fault found with Applicant's Goods or Services marketed or sold under Applicant's Mark will reflect upon and seriously injure the valuable reputation that Opposer has established for the Opposer's Goods and Services. Therefore, the registration of Applicant's Mark would damage and injure Opposer."

INTERROGATORY NO. 48:

IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR contention in paragraph 17 of YOUR OPPOSITION, that "The registration of Applicant's Mark would prevent Opposer from exercising exclusive control over the goodwill and reputation associated with Opposer's Mark. Any defect, objection or fault found with Applicant's Goods or Services marketed or sold under Applicant's Mark will reflect upon and seriously injure the valuable reputation that Opposer has established for the Opposer's Goods and Services. Therefore, the registration of Applicant's Mark would damage and injure Opposer."

INTERROGATORY NO. 49:

State all FACTS that SUPPORT YOUR contention in paragraph 18 of YOUR OPPOSITION, that "Registration of Applicant's Mark would also damage Opposer because such registration would grant a statutory exclusive right to Applicant in violation and derogation of the prior and superior rights of Opposer and would unduly narrow the scope of protection afforded to Opposer's Marks."

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1   **INTERROGATORY NO. 50:**

2   IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU

3   believe SUPPORTS YOUR contention in paragraph 18 of YOUR OPPOSITION, that

4   "Registration of Applicant's Mark would also damage Opposer because such registration would

5   grant a statutory exclusive right to Applicant in violation and derogation of the prior and superior

6   rights of Opposer and would unduly narrow the scope of protection afforded to Opposer's

7   Marks."

8   **INTERROGATORY NO. 51:**

9   IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR

10   contention in paragraph 18 of YOUR OPPOSITION, that "Registration of Applicant's Mark

11   would also damage Opposer because such registration would grant a statutory exclusive right to

12   Applicant in violation and derogation of the prior and superior rights of Opposer and would

13   unduly narrow the scope of protection afforded to Opposer's Marks."

14   **INTERROGATORY NO. 52:**

15   State all FACTS that SUPPORT YOUR contention in paragraph 19 of YOUR

16   OPPOSITION, that "Registration of Applicant's Mark is likely to lessen the capacity of

17   Opposer's Mark to identify and distinguish Opposer's Goods and Services and is likely to dilute

18   the strength of Opposer's distinctive and famous Mark."

19   **INTERROGATORY NO. 53:**

20   IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU

21   believe SUPPORTS YOUR contention in paragraph 19 of YOUR OPPOSITION, that

22   "Registration of Applicant's Mark is likely to lessen the capacity of Opposer's Mark to identify

23   and distinguish Opposer's Goods and Services and is likely to dilute the strength of Opposer's

24   distinctive and famous Mark."

25   ///

26   ///

27   ///

28   ///

INTERROGATORY NO. 54:

IDENTIFY all PERSONS having knowledge or information that SUPPORTS YOUR contention in paragraph 19 of YOUR OPPOSITION, that "Registration of Applicant's Mark is likely to lessen the capacity of Opposer's Mark to identify and distinguish Opposer's Goods and Services and is likely to dilute the strength of Opposer's distinctive and famous Mark."

INTERROGATORY NO. 55:

IDENTIFY YOUR first use of OPENTV PVR.

INTERROGATORY NO. 56:

IDENTIFY YOUR first use in commerce of OPENTV PVR.

INTERROGATORY NO. 57:

IDENTIFY with specificity every survey conducted by YOU, or otherwise in YOUR possession, custody or control, RELATING TO determining or establishing proof of a likelihood of confusion between APPLICANT'S Goods and Services and YOUR Goods and Services.

INTERROGATORY NO. 58:

IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU believe SUPPORTS a finding of a likelihood of confusion between APPLICANT'S Goods and Services and YOUR Goods and Services.

INTERROGATORY NO. 59:

IDENTIFY with specificity every DOCUMENT or other physical evidence which YOU believe SUPPORTS a finding of actual confusion between APPLICANT'S Goods and Services and YOUR Goods and Services.

DATED: June 9, 2008

GREENBERG TRAURIG, LLP

DAVID PEREZ

Attorneys for Applicant, 5 STAR LINUX, INC.

14

PROOF OF SERVICE

I, Cathy Sandifer, declare that I am a citizen of the United States, over the age of eighteen years and not a party to the within action. I am an employee of GREENBERG TRAURIG, LLP, and my business address is 1900 University Avenue, Fifth Floor, East Palo Alto, CA 94303. On June 9, 2008, I served the following documents:

APPLICANT'S SPECIAL INTERROGATORIES, SET ONE

☐   by transmitting via **FACSIMILE** the document(s) listed above to the fax numbers) set forth below, or as stated on the attached service list, on this date at approximately _____, from the sending facsimile machine telephone number of 650-289-7893. The transmission was reported as complete and without error by the machine. Pursuant to California Rules of Court, Rule 2008(e)(4), I caused the machine to print a transmission record of the transmission, a copy of which is attached to the original of this declaration. The transmission report was properly issued by the transmitting facsimile machine.

☒   by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the **UNITED STATES MAIL** at East Palo Alto, California, addressed as set forth below.

☐   by **OVERNIGHT MAIL** by placing the document(s) listed above in a sealed overnight mail envelope with postage thereon fully prepaid, addressed as set forth below.

☐   **(BY MESSENGER PERSONAL SERVICE).** I caused delivery of such envelope by hand via courier service to the offices of the addressee.

Grace Han Stanton, Esq.
Perkins Coie LLP
1201 Third Ave., Ste. 4800
Seattle, WA 98101

I am readily familiar with the business practice of my place of employment in respect to the collection and processing of correspondence, pleadings and notices for mailing with United States Postal Service/Express Mail, Federal Express and other overnight mail services. The foregoing sealed envelope was placed for collection and mailing this date consistent with the ordinary business practice of my place of employment, so that it will be picked up this date with postage thereon fully prepaid at East Palo Alto, California, in the ordinary course of such business.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 9, 2008, at East Palo Alto, California.

Cathy Sandifer
Cathy Sandifer

EXHIBIT D

Li, James (Shld-SV-IP/Tech)

From: Li, James (Shld-SV-IP/Tech)
Sent: Thursday, July 10, 2008 10:31 AM
To: Vana, James L. (Perkins Coie)
Cc: Stanton, Grace Han (Perkins Coie)
Subject: RE: OPENPVR Opposition (No. 91181512) - Our ref. 58592.0021

Jim:

Thank you for your offer. I talked with my client about this. The client's preliminary response is that we cannot agree to the restrictions. First, we do sell software as a standalone package to third parties. Second, the applications you highlighted are also part of our software and hardware functions. So at this point, it does not seem to be promising that we can reach an agreement, although we are looking at the scope to see if we can narrow the scope somewhat. But I doubt that will be acceptable to OpenTV. Thus, we should proceed with the discovery at this point.

Best regards,

Jim

From: Vana, James L. (Perkins Coie) [mailto:JVana@perkinscoie.com]
Sent: Wednesday, July 09, 2008 6:19 PM
To: Li, James (Shld-SV-IP/Tech)
Cc: Stanton, Grace Han (Perkins Coie)
Subject: OPENPVR Opposition (No. 91181512) - Our ref. 58592.0021

FOR SETTLEMENT PURPOSES ONLY

Jim -

Following up on our call this afternoon, OpenTV proposes to settle the current opposition as follows:

5 Star Linux will amend the opposed application by modifying the bolded language in its class 9 description below to either delete the bold anguage, or make clear that the software is integrated with the listed hardware and devices as opposed being provided on a standalone basis. In exchange, we'll withdraw the opposition without prejudice.

- Class 9: Audio and video receivers, signal decoder boxes, television set-top boxes and signal converters; consumer electronics hardware devices for playing audio and video from a computer hard disk drive and storing and playing transmissions from television and radio broadcasts and from computer networks, namely, audio and video disk recorders, remote controls, computer hardware and computer peripherals; **computer client-sever software for use in delivering, receiving and managing integrated voice, video and data from the Internet to display units and televisions; computer software for use in operating telecommunications devices**; and user manuals and guides sold as a unit therewith

The remainder of the Class 9 description of goods, and the entire Class 38 description of services, would be unchanged. I look forward to hearing from you after you have discussed this proposal with your client.

On a related matter, you have served discovery on OpenTV, with a July 14 response date. I propose that we extend the response deadline for up to a month, as long as settlement discussions are ongoing and productive. Let me know if you are amenable to that.

Jim Vana
Perkins Coie LLP
1201 Third Avenue, Suite 4800

5/19/2009

Seattle, WA 98101
Direct: (206) 359-3036
Fax (206) 359-4036
www.perkinscoie.com

5/19/2009

EXHIBIT E 1

Open source

From Wikipedia, the free encyclopedia

Open source is an approach to design, development, and distribution offering practical accessibility to a product's source (goods and knowledge). Some consider open source as one of various possible design approaches, while others consider it a critical strategic element of their operations. Before *open source* became widely adopted, developers and producers used a variety of phrases to describe the concept; the term *open source* gained popularity with the rise of the Internet, which provided access to diverse production models, communication paths, and interactive communities.

Software development costs in organizations have been touted as being approximately 15% of total costs. This indicates that the value of one over another development methodology is more of a marketing decision (which customers and pricing models) as much as it is about the design of software.

The open source model of operation and decision making allows concurrent input of different agendas, approaches and priorities, and differs from the more closed, centralized models of development.[1] The principles and practices are commonly applied to the peer production development of source code for software that is made available for public collaboration. The result of this peer-based collaboration is usually released as open-source software, however open source methods are increasingly being applied in other fields of endeavor, such as Biotechnology.

Contents

History

Very similar to open standards, researchers with access to the Advanced Research Projects Agency Network (ARPANET) used a process called Request for Comments to develop telecommunication network protocols. Characterized by contemporary open source work, this 1960s' collaborative process led to the birth of the Internet in 1969. There are earlier instances of open source and free software such as IBM's source releases of its operating systems and other programs in the 1950s, 60s, and the SHARE user group that formed to facilitate the exchange of software.[2][3]

The decision by some people in the free software movement to use the label "open source" came out of a strategy session[4] held at Palo Alto, California, in reaction to Netscape's January 1998 announcement of a source code release for Navigator. The group of individuals at the session included Christine Peterson who suggested "open source", Todd Anderson, Larry Augustin, Jon Hall, Sam Ockman, Michael Tiemann and Eric S. Raymond. They used the opportunity before the release of Navigator's source code to free themselves of the ideological and confrontational connotations of the term free software. Netscape licensed and released its code as open source under the Netscape Public License and subsequently under the Mozilla Public License.[5]

The term was given a big boost at an event organized in April 1998 by technology publisher Tim O'Reilly. Originally titled the "Freeware Summit" and later known as the "Open Source Summit",[6] the event brought together the leaders of many of the most important free and open source projects, including Linus Torvalds, Larry Wall, Brian Behlendorf, Eric Allman, Guido van Rossum, Michael Tiemann, Paul Vixie, Jamie Zawinski of Netscape, and Eric Raymond. At that meeting, the confusion caused by the name "free software" was brought up. Tiemann argued for "sourceware" as a new term, while Raymond argued for "open source." The assembled developers took a vote, and the winner was announced at a press conference that evening. Five days later, Raymond made the first public call to the free software community to adopt the new term.[7] The Open Source Initiative was formed shortly thereafter.[4]

The Open Source Initiative (OSI) formed in February 1998 by Raymond and Perens. With about 20 years of evidence from case histories of closed and open development already provided by the Internet, the OSI continued to present the 'open source' case to commercial businesses. They sought to bring a higher profile to the practical benefits of freely available source code, and wanted to bring major software businesses and other high-tech industries into open source. Perens adapted Debian's Free Software Guidelines to make the The Open Source Definition.[8]

Definitions

There are numerous groups who claim to own the term "Open Source", but in reality the term has not been trademarked. The Open Source Initiative's definition is widely recognized as the "real" definition.

The Open Source Definition

The Open Source Definition is used by the Open Source Initiative to determine whether or not a software license can be considered open source. The definition was based on the Debian Free Software Guidelines, written and adapted primarily by Bruce Perens.[9][10] Perens in turn based his writing on the "four freedoms" of Free Software from the Free Software Foundation.[11]

Perens' principles

Under Perens' definition, open source describes a broad general type of software license that makes source code available to the general public with relaxed or non-existent copyright restrictions. The principles, as stated, say absolutely nothing about trademark or patent use and require absolutely no cooperation to ensure that any common audit or release regime applies to any derived works. It is an explicit "feature" of open source that it may put no

restrictions on the use or distribution by any organization or user. It forbids this, in principle, to guarantee continued access to derived works even by the major original contributors.

Proliferation of the term

While the term applied originally only to the source code of software,[12] it is now being applied to many other areas such as open source ecology,[13] a movement to decentralize technologies so that any human can use them. However, it is often misapplied to other areas which have different and competing principles, which overlap only partially.

Non-software use

The principles of open source have been adapted for many other forms of user generated content and technology, including open source hardware.

Supporters of the open content movement advocate some restrictions of use, requirements to share changes, and attribution to other authors of the work.

This "culture" or ideology takes the view that the principles apply more generally to facilitate concurrent input of different agendas, approaches and priorities, in contrast with more centralized models of development such as those typically used in commercial companies.[1]

Advocates of the open source principles often point to Wikipedia as an example, but Wikipedia has in fact often restricted certain types of use or user, and the GFDL license it uses makes specific requirements of all users, which technically violates the open source principles.

Business models

There are a number of commonly recognized barriers to the adoption of open source software by enterprises. These barriers include the perception that open source licenses are viral, lack of formal support and training, the velocity of change, and a lack of a long term roadmap. The majority of these barriers are risk-related. From the other side, not all proprietary projects disclose exact future plans, not all open source licenses are equally viral and many serious OSS projects (especially operating systems) actually make money from paid support and documentation.

A commonly employed Business Strategy of Commercial Open Source Software Firms is the Dual-License Strategy, as demonstrated by Ingres, MySQL, Alfresco, and others.

Widely-used open source products

Open source software (OSS) projects are built and maintained by a network of volunteer programmers. Prime examples of open source products are the Apache HTTP Server, the internet address system Internet Protocol, and the internet browser Mozilla Firefox. One of the most successful open source products is the GNU/Linux operating system, an open source Unix-like operating system.[14][15]

Society and culture

Open source culture is the creative practice of appropriation and free sharing of found and created content. Examples include collage, found footage film, music, and appropriation art. Open source culture is one in which fixations, works entitled to copyright protection, are made generally available. Participants in the culture can modify those products and redistribute them back into the community or other organizations.

The rise of open-source culture in the 20th century resulted from a growing tension between creative practices that involve appropriation, and therefore require access to content that is often copyrighted, and increasingly restrictive intellectual property laws and policies governing access to copyrighted content. The two main ways in which intellectual property laws became more restrictive in the 20th century were extensions to the term of copyright (particularly in the United States) and penalties, such as those articulated in the Digital Millennium Copyright Act (DMCA), placed on attempts to circumvent anti-piracy technologies.

Although artistic appropriation is often permitted under fair use doctrines, the complexity and ambiguity of these doctrines creates an atmosphere of uncertainty among cultural practitioners. Also, the protective actions of copyright owners create what some call a "chilling effect" among cultural practitioners.

In the late 20th century, cultural practitioners began to adopt the intellectual property licensing techniques of free software and open-source software to make their work more freely available to others, including the Creative Commons.

The idea of an "open source" culture runs parallel to "Free Culture," but is substantively different. *Free culture* is a term derived from the free software movement, and in contrast to that vision of culture, proponents of Open Source Culture (OSC) maintain that some intellectual property law needs to exist to protect cultural producers. Yet they propose a more nuanced position than corporations have traditionally sought. Instead of seeing intellectual property law as an expression of instrumental rules intended to uphold either natural rights or desirable outcomes, an argument for OSC takes into account diverse goods (as in "the Good life") and ends.

One way of achieving the goal of making the fixations of cultural work generally available is to maximally utilize technology and digital media. As predicted by Moore's law, the cost of digital media and storage plummeted in the late 20th Century. Consequently, the marginal cost of digitally duplicating anything capable of being transmitted via digital media dropped to near zero. Combined with an explosive growth in personal computer and technology ownership, the result is an increase in general population's access to digital media. This phenomenon facilitated growth in open source culture because it allowed for rapid and inexpensive duplication and distribution of culture. Where the access to the majority of culture produced prior to the advent of digital media was limited by other constraints of proprietary and potentially "open" mediums, digital media is the latest technology with the potential to increase access to cultural products. Artists and users who choose to distribute their work digitally face none of the physical limitations that traditional cultural producers have been typically faced with. Accordingly, the audience of an open source culture faces little physical cost in acquiring digital media.

Open source culture precedes Richard Stallman's codification of the concept with the creation of the Free Software Foundation. As the public began to communicate through Bulletin Board Systems (BBS) like FidoNet, places like Sourcery Systems BBS were dedicated to providing source code to Public Domain, Shareware and Freeware programs.

Essentially born out of a desire for increased general access to digital media, the Internet is open source culture's most valuable asset. It is questionable whether the goals of an open source culture could be achieved without the Internet. The global network not only fosters an environment where culture can be generally accessible, but also allows for easy and inexpensive redistribution of culture back into various communities. Some reasons for this are as follows.

First, the Internet allows even greater access to inexpensive digital media and storage. Instead of users being limited to their own facilities and resources, they are granted access to a vast network of facilities and resources, some for free. Sites such as Archive.org offer up free web space for anyone willing to license their work under a Creative Commons license. The resulting cultural product is then available to download for free (generally accessible) to anyone with an Internet connection.

Second, users are granted unprecedented access to each other. Older analog technologies such as the telephone or

television have limitations on the kind of interaction users can have. In the case of television there is little, if any interaction between users participating on the network. And in the case of the telephone, users rarely interact with any more than a couple of their known peers. On the Internet, however, users have the potential to access and meet millions of their peers. This aspect of the Internet facilitates the modification of culture as users are able to collaborate and communicate with each other across international and cultural boundaries. The speed in which digital media travels on the Internet in turn facilitates the redistribution of culture.

Through various technologies such as peer-to-peer networks and blogs, cultural producers can take advantage of vast social networks in order to distribute their products. As opposed to traditional media distribution, redistributing digital media on the Internet can be virtually costless. Technologies such as BitTorrent and Gnutella take advantage of various characteristics of the Internet protocol (TCP/IP) in an attempt to totally decentralize file distribution.

Government

- Open politics (sometimes known as *Open source politics*) — is a term used to describe a political process that uses Internet technologies such as blogs, email and polling to provide for a rapid feedback mechanism between political organizations and their supporters. There is also an alternative conception of the term *Open source politics* which relates to the development of public policy under a set of rules and processes similar to the Open Source Software movement.
- Open source governance — is similar to open source politics, but it applies more to the democratic process and promotes the freedom of information.

Ethics

Open Source ethics is split into two strands:

- Open Source Ethics as an Ethical School - Charles Ess and David Berry are researching whether ethics can learn anything from an open source approach. Ess famously even defined the AoIR Research Guidelines as an example of open source ethics.[16]
- Open Source Ethics as a Professional Body of Rules - This is based principally on the computer ethics school, studying the questions of ethics and professionalism in the computer industry in general and software development in particular.[17]

Media

Open source journalism — referred to the standard journalistic techniques of news gathering and fact checking, and reflected a similar term that was in use from 1992 in military intelligence circles, open source intelligence. It is now commonly used to describe forms of innovative publishing of online journalism, rather than the sourcing of news stories by a professional journalist. In the Dec 25, 2006 issue of TIME magazine this is referred to as user created content and listed alongside more traditional open source projects such as OpenSolaris and Linux.

Weblogs, or blogs, are another significant platform for open source culture. Blogs consist of periodic, reverse chronologically ordered posts, using a technology that makes webpages easily updatable with no understanding of design, code, or file transfer required. While corporations, political campaigns and other formal institutions have begun using these tools to distribute information, many blogs are used by individuals for personal expression, political organizing, and socializing. Some, such as LiveJournal or WordPress, utilize open source software that is open to the public and can be modified by users to fit their own tastes. Whether the code is open or not, this format represents a nimble tool for people to borrow and re-present culture; whereas traditional websites made the illegal reproduction of culture difficult to regulate, the mutability of blogs makes "open sourcing" even more uncontrollable since it allows a larger portion of the population to replicate material more quickly in the public sphere.

Messageboards are another platform for open source culture. Messageboards (also known as discussion boards or forums), are places online where people with similar interests can congregate and post messages for the community to read and respond to. Messageboards sometimes have moderators who enforce community standards of etiquette such as banning users who are spammers. Other common board features are private messages (where users can send messages to one another) as well as chat (a way to have a real time conversation online) and image uploading. Some messageboards use phpBB, which is a free open source package. Where blogs are more about individual expression and tend to revolve around their authors, messageboards are about creating a conversation amongst its users where information can be shared freely and quickly. Messageboards are a way to remove intermediaries from everyday life - for instance, instead of relying on commercials and other forms of advertising, one can ask other users for frank reviews of a product, movie or CD. By removing the cultural middlemen, messageboards help speed the flow of information and exchange of ideas.

OpenDocument is an open document file format for saving and exchanging editable office documents such as text documents (including memos, reports, and books), spreadsheets, charts, and presentations. Organizations and individuals that store their data in an open format such as OpenDocument avoid being locked in to a single software vendor, leaving them free to switch software if their current vendor goes out of business, raises their prices, changes their software, or changes their licensing terms to something less favorable.

Open source movie production is either an open call system in which a changing crew and cast collaborate in movie production, a system in which the end result is made available for re-use by others or in which exclusively open source products are used in the production. The 2006 movie Elephants Dream is said to be the "world's first open movie"[18], created entirely using open source technology.

An open source documentary film has a production process allowing the open contributions of archival material, footage, and other filmic elements, both in unedited and edited form. By doing so, on-line contributors become part of the process of creating the film, helping to influence the editorial and visual material to be used in the documentary, as well as its thematic development. The first open source documentary film to go into production "The American Revolution" (http://www.lcmedia.com/americanrevolution.pdf) [19]," which will examine the role that WBCN-FM in Boston played in the cultural, social and political changes locally and nationally from 1968 to 1974, is being produced by Lichtenstein Creative Media and the non-profit The Fund for Independent Media. Open Source Cinema (http://www.opensourcecinema.org/) is a website to create Basement Tapes, a feature documentary about copyright in the digital age, co-produced by the National Film Board of Canada (http://www.nfb.ca/). Open Source Filmmaking refers to a form of filmmaking that takes a method of idea formation from open source software, but in this case the 'source' for a film maker is raw unedited footage rather than programming code. It can also refer to a method of filmmaking where the process of creation is 'open' i.e. a disparate group of contributors, at different times contribute to the final piece.

Open-IPTV is IPTV that is not limited to one recording studio, production studio, or cast. Open-IPTV uses the Internet or other means to pool efforts and resources together to create an online community that all contributes to a show.

Education

Within the academic community, there is discussion about expanding what could be called the "intellectual commons" (analogous to the Creative Commons). Proponents of this view have hailed the Connexions Project at Rice University, OpenCourseWare project at MIT, Eugene Thacker's article on "Open Source DNA", the "Open Source Cultural Database" and Wikipedia as examples of applying open source outside the realm of computer software.

Open source curricula are instructional resources whose digital source can be freely used, distributed and modified.

Another strand to the academic community is in the area of research. Many funded research projects produce software as part of their work. There is an increasing interest in making the outputs of such projects available under an open source license. In the UK the Joint Information Systems Committee (JISC) has developed a policy on open source software. JISC also funds a development service called OSS Watch which acts as an advisory service for higher and further education institutions wishing to use, contribute to and develop open source software.

Innovation communities

The principle of sharing predates the open source movement; for example, the free sharing of information has been institutionalized in the scientific enterprise since at least the 19th century. Open source principles have always been part of the scientific community. The sociologist Robert K. Merton described the four basic elements of the community - universalism (an international perspective), communism (sharing information), disinterestedness (removing one's personal views from the scientific inquiry) and organized skepticism (requirements of proof and review) that accurately describe the scientific community today. These principles are, in part, complemented by US law's focus on protecting expression and method but not the ideas themselves. There is also a tradition of publishing research results to the scientific community instead of keeping all such knowledge proprietary. One of the recent initiatives in scientific publishing has been open access - the idea that research should be published in such a way that it is free and available to the public. There are currently many open access journals where the information is available for free online, however most journals do charge a fee (either to users or libraries for access). The Budapest Open Access Initiative is an international effort with the goal of making all research articles available for free on the Internet. The National Institutes of Health has recently proposed a policy on "Enhanced Public Access to NIH Research Information." This policy would provide a free, searchable resource of NIH-funded results to the public and with other international repositories six months after its initial publication. The NIH's move is an important one because there is significant amount of public funding in scientific research. Many of the questions have yet to be answered - the balancing of profit vs. public access, and ensuring that desirable standards and incentives do not diminish with a shift to open access.

Farmavita.Net - Community of Pharmaceuticals Executives have recently proposed new business model of Open Source Pharmaceuticals [20]. The project is targeted to development and sharing of know-how for manufacture of essential and life saving medicines. It is mainly dedicated to the countries with less developed economies where local pharmaceutical research and development resources are insufficient for national needs. It will be limited to generic (off-patent) medicines with established use. By the definition, medicinal product have a "well-established use" if is used for at least 15 years, with recognized efficacy and an acceptable level of safety. In that event, the expensive clinical test and trial results could be replaced by appropriate scientific literature.

Benjamin Franklin was an early contributor eventually donating all his inventions including the Franklin stove, bifocals and the lightning rod to the public domain after successfully profiting off their sales and patents.

New NGO communities are starting to use the open source technology as a tool. One example is the Open Source Youth Network started in 2007 in Lisboa by ISCA members[21].

Open innovation is also a new emerging concept which advocate putting R&D in a common pool, the Eclipse platform is openly presenting itself as an Open innovation network [22]

Arts and recreation

Copyright protection is used in the performing arts and even in athletic activities. Some groups have attempted to remove copyright from such practices.[23]

Certification

In order to build higher user confidence, certification is mandatory. Certification could be applied to the simplest component that can be used by developers to build the simplest module to a whole software system. There have been numerous institutions involving in this area of the open source software including The International Institute of Software Technology / United Nations University (http://www.iist.unu.edu). UNU/IIST is a non-profit research and education institution of The United Nations. It is currently involved in a project known as "The Global Desktop Project". This project aims to build a desktop interface that every end-user is able to understand and interact with, thus crossing the language and cultural barriers. It is drawing huge attention from parties involved in areas ranging from application development to localization. Furthermore, this project will improve developing nations' access to information systems. UNU/IIST aims to achieve this without any compromise in the quality of the software. It believes a global standard can be maintained by introducing certifications and is currently organizing conferences in order to explore frontiers in the field (http://opencert.iist.unu.edu).

Criticism

The criticisms of the specific Open Source Initiative (OSI) principles are dealt with above as part of the definition and differentiation from other terms. The open content movement does not recognize nor endorse the OSI principles and embraces instead mutual share-alike agreements that require derived works to be re-integrated and treated equitably, e.g. not patented or trademarked to the detriment of the individual contributors/authors.

Another criticism of the Open Source movement is that these projects may not be really as self-organizing as their proponents claim. This argument holds that successful Open Source projects frequently have a strong central manager, even if that manager is a volunteer. The article Open Source Projects Manage Themselves? Dream On. (http://www.chc-3.com/pub/manage_themselves.htm) by Chuck Connell explains this viewpoint. However this is a criticism of the development model, not of the Open Source itself. Also, the author does not state that self organization surely does not work, just points to the cases when the central management was likely involved.

The legal and cultural criticisms are both addressed as part of a common set of objections and criticisms by those who prefer share-alike as an organizing principle. This includes the Creative Commons which simply ignores the OSI principles and endorses licenses that clearly violate them such as the ability to disallow commercial use or the preparation of derivative works.

Of the vocal critics, Richard Stallman of the Free Software Foundation (FSF), flatly opposes the term "Open Source" being applied to what they refer to as "free software". Although it's clear that legally free software does qualify as open source, he considers that the category is abusive. [24] They also oppose the professed pragmatism of the Open Source Initiative, as they fear that the free software ideals of freedom and community are threatened by compromising on the FSF's idealistic standards for software freedom.[25][26]

See also

Lists

- Alphabetical list of open source games
- List of commercial open source applications
- List of open source healthcare software
- List of open-source games by genre
- List of open source software packages
- List of trademarked open source software

Terms based on open source

- Open source governance
- Open source software
- Open source hardware
- Open Source Initiative
- Open-source license
- Open source political campaign
- Open source record label
- Open source religion

Other

- Commons-based peer production
- Commercial open source applications
- Community source
- Digital freedom
- Embrace, extend and extinguish
- Free Beer
- Free software
- Gift economy
- Glossary of legal terms in technology
- Halloween Documents
- Linux
- Network effect
- Open access (publishing)
- Open content
- Open data
- Open design
- OpenDWG
- Open format
- Open implementation
- Open innovation
- Open JDK
- Open research
- Open Solaris
- Open Source as a Service
- Open source vs. closed source
- Open system (computing)
- Open standard
- Openness
- Shared software
- Shared source
- Vendor lock-in

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the open source development model succeeds in making this software more powerful and reliable for restricting you, that will make it even worse."

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- Calls for open source government (http://news.bbc.co.uk/1/hi/technology/7841486.stm)

Retrieved from "http://en.wikipedia.org/wiki/Open_source"
Categories: Computer law | Intellectual property law | Free software culture and documents | Social information processing | Standardization
Hidden categories: Articles needing additional references from July 2007

EXHIBIT E 2

Open system

From Wikipedia, the free encyclopedia

Open system may refer to:

- Open system (computing), one of a class of computers and associated software that provides some combination of interoperability, portability and open software standards, particularly Unix and Unix-like systems
- Open system (systems theory), a system where matter or energy can flow into and/or out of the system, in contrast to a closed system, where energy can enter or leave but matter may not
- Open system, in management science a system that is capable of self-maintenance on the basis of throughput of resources from the environment
- open and closed system in social science,

See also

- Open circuit

Retrieved from "http://en.wikipedia.org/wiki/Open_system"
Categories: Disambiguation pages
Hidden categories: All disambiguation pages | All article disambiguation pages

- This page was last modified on 28 April 2009, at 14:29 (UTC).
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EXHIBIT E 3

Open University

42′ 20″ W (http://stable.toolserver.org/geohack/geohack.php?pagename=Open_University&params=52_01_30_N_0_42_20_W_type:building_scale:5000)
From Wikipedia, the free encyclopedia

Open University is also the name of other institutions. See Distance education or the Open Universities category for a list.

The Open University (commonly **Open University** or **OU**, but officially *the* is part of its name) is the UK's distance learning government-supported university notable for having an open entry policy, i.e. students' previous academic achievements are not taken into account for entry to most undergraduate courses. It was established in 1969 and the first students enrolled in January 1971.[4] The majority of students are based in the UK, but its courses can be studied anywhere in the world.[5] The administration is based at Walton Hall, Milton Keynes in Buckinghamshire, but has regional centres in each of its thirteen regions around the UK. It also has offices in other European countries. The University awards undergraduate and postgraduate degrees, as well as non-degree qualifications such as diplomas and certificates, or continuing education units.

With more than 180,000 students enrolled, including more than 25,000 students studying overseas,[6] it is the largest academic institution in the UK by student number, and qualifies as one of the world's largest universities. Since it was founded, more than 3 million students have studied its courses. It was rated top university in England and Wales for student satisfaction in the 2005[7] and 2006[8] UK government national student satisfaction survey, and second in the 2007 survey.[9]

The Open University	
Motto:	*Learn and Live*
Established:	1969
Type:	Public
Chancellor:	Lord Puttnam[1]
Vice-Chancellor:	Prof Brenda Gourley[2]
Students:	168,850[3]
Undergraduates:	151,385[3]
Postgraduates:	17,465[3]
Location:	Milton Keynes (main campus) & regional centres, United Kingdom
Campus:	Distance learning
Colours:	
Affiliations:	University Alliance Association of Commonwealth Universities European Association of Distance Teaching Universities Middle States Association of Colleges and Schools
Website:	http://www.open.ac.uk/

Contents

Aims

The OU aims to provide a university education for those wishing to pursue higher education on a part-time or distance learning basis, including disabled people, who are officially a priority group within the University. The British Government asked the Open University to continue the work of the Council for National Academic Awards (CNAA) when it was dissolved. The CNAA formerly awarded degrees at the polytechnics which have since become universities.

Foundation

The Open University was founded by the Labour government of Harold Wilson, based on the vision of Michael Young (later Lord Young of Dartington). Planning commenced in 1965 under Minister of State for Education Jennie Lee, who led an advisory committee consisting of university vice-chancellors, educationalists and broadcasters. The BBC's Assistant Director of Engineering at the time, James Redmond had obtained most of his qualifications at night school, and his natural enthusiasm for the project did much to overcome the technical difficulties of using television to broadcast teaching programmes.

Walter Perry (later Lord Perry) was appointed the OU's first vice-chancellor in January 1969, and its Foundation Secretary was Anastasios Christodoulou. The election of the new Conservative government of Edward Heath in 1970 led to budget cuts under Chancellor of the Exchequer Iain Macleod (who had earlier called the idea of an Open University "blithering nonsense").[10] However the OU accepted its first 25,000 students in 1971, adopting a radical open admissions policy. At the time, the total "traditional" university population in the UK was around 130,000.

Since its foundation, the OU has inspired the creation of many similar institutions around the world.

Students

People from all walks of life and all ages take advantage of the OU; for most courses there are no entry requirements other than the ability to study at an appropriate level, though most postgraduate courses require evidence of previous study or equivalent life experience.

Approximately 70 percent of students are in full-time employment, often working towards a first (or additional) degree or qualification to progress or change their career, with over 50,000 being sponsored by their employer. The University is also popular with those who cannot physically attend a traditional university because they are disabled, abroad, in prison, serving in the armed forces, or looking after family members. About 10,000 OU students have disabilities.[6]

While most of those studying are mature students, the reduction in financial support for those attending traditional universities has also led to an influx of young undergraduates to the OU. In the 2003–2004 academic year, around 20 percent of undergraduates were under 25 years old,[11] up from 12.5 percent in 1996–1997 (the year before top-up fees were announced) and a small minority are under 18. The OU works with some schools to introduce A Level students to OU study.

Unlike other universities, where students register for a programme, at the OU students register separately for

individual modules (which may be 10, 15, 20, 30 or 60 CATS points, equivalent to 5, 7.5, 10, 15, or 30 ECTS credits), and are known as 'courses' in the OU context. These courses may then be linked into degree programmes.

The students' union is the Open University Students Association, usually abbreviated to OUSA.

The University enrolled less than 50,000 students in the 1970-1971 academic year, but it quickly exceeded that number by 1974-1975, and by 1987-1988 yearly enrollment had doubled to 100,000 students, reaching 200,000 by 2001-2002; cumulatively, the University has educated more than two million students, 675,000 of which studied enough courses to achieve a qualification after successful assessment.[12] As of the 2006-2007 academic year, there are 224,276 students and 6184 customers (who just buy the course materials but do not enroll to the course to receive academic credits).[12] Most students come from England (148,395), while others are from Scotland, Ireland, and the rest of the European Union.[12] The majority of students (14,577) choose to undertake social studies and biological and physical sciences (11 910), as well as historical and philosophical studies; the least popular academic fields in The Open University are mass communications and documentation (187 students) and creative arts and design (545 students).[12] The most popular course for the 2006-2007 academic year was *DD100 An introduction to the social sciences* (more than seven thousand students studied it in one academic year), followed by *A103 An introduction to the humanities, K100 Understanding health and social care, M150 Data, computing and information*, and *DSE212 Exploring psychology* (slightly fewer than four thousand students).[12] More undergraduate students are female than male, while there are slightly more males than females taking postgraduate courses; and the majority of the students are between 25 and 44 years old, the median age of new undergraduates being 32.[12] 37,852 students receive financial help, and the typical cost for UK students of a Bachelor's honours degree at the OU is between £3,150 and £4,225 (EU and international students pay more as the University does not receive government funding for them). After government support, the second most important revenue stream to The Open University are academic fees paid by the students, which in one academic year (2006-2007) total about £123 million.

Staff

The majority of staff are Associate Lecturers as, as of the 2006-2007 academic year, there are over eight thousand working for OU.[12] There are also 1218 salaried academic employees, 1654 others who are also academic-related, and 1847 support staff (including secretaries and technicians).[12]

Salaries are the main cost in The Open University's balance sheets, claiming over 225 million GBP for only one academic year (2006-2007).[12]

Teaching methods

The OU uses a variety of methods for distance learning, including written and audio materials, the Internet, disc-based software and television programmes on DVD. Course-based television broadcasts by the BBC, which started on 3 January 1971, ceased on 15 December 2006.[13] Materials are composed of originally-authored work by in-house and external academic contributors, and from third-party materials licensed for use by OU students. For most courses, students are supported by tutors ("Associate Lecturers") who provide feedback on their work and are generally available to them at face-to-face tutorials, by telephone, and/or on the Internet. A number of short courses worth ten points are now available that do not have an assigned tutor but offer an online conferencing service (Internet Forum) where help and advice is offered through conferencing "Moderators".

Some courses have mandatory day schools. These are day-long sessions which a student must attend in order to pass the course. One example of such a course is the K301 - Advanced Certificate in Health Promotion - which has two mandatory day schools/workshops, focusing on communication skills, counselling and practical issues related to health promotion. Nevertheless, it is possible to seek excusal upon the basis of ill-health (or other extenuating circumstances), and many courses have no mandatory face-to-face component.

Similarly, many courses have traditionally offered week long summer schools offering an opportunity for students to remove themselves from the general distractions of their life and focus on their study for a short time.

Over the past ten years the University has adopted a policy of separating residential courses from distance-taught courses. Exemption from attendance at residential schools, always as an Alternative Learning Experience (ALE), is sometimes available for disabled students and others who find it impossible to attend in person (See "Qualifications-Undergraduate" section.)

The OU now produces mainstream television and radio programming aimed at bringing learning to a wider audience. Most of this programming, including series such as *Rough Science* and "Battle of the Geeks", are broadcast at peak times, while older programming is carried in the BBC Learning Zone. But in 2004 the OU announced it was to stop its late night programmes on BBC2, and the last such programme was broadcast at 5.30am on 16 December 2006. The OU now plans to focus on mainstream programmes.

Teaching at the OU has been rated as "excellent"[14] by the Quality Assurance Agency for Higher Education. The English national survey of student satisfaction has twice put the Open University in first place.

In October 2006 the OU joined the Open educational resources movement with the launch of OpenLearn. A growing selection of current and past distance learning course materials will be released for free access, including downloadable versions for educators to modify (under the Creative Commons BY-NC-SA licence), plus free collaborative learning-support tools.

The OU is researching the use of Second Life in teaching and learning, and has two islands in the virtual world. These islands are called Open Life Island[15] and Open Life Village[16]. They are separated by a third region "Open Life Ocean." In May 2009 these regions formed the basis of a case study[17] by Linden Lab, the company which owns Second Life.

Assessment methods

The Open University offers courses that are generally[18] assessed using an equal weighting of examinations and coursework. The coursework component normally takes the form of between two and six tutor marked assignments (TMAs) and, occasionally, may also include up to six multiple-choice or "missing word" 100-question computer marked assignments (CMAs). The examinable component is usually a proctored three hour paper regardless of the course size (although on some courses it can be up to three three-hour papers[19]), but may also be an ECA (End of Course Assessment) which is similar to a TMA, in that it is completed at home, but is regarded as an exam for grading purposes. Course results are sometimes issued on a graded basis, consisting of pass grades 1 (threshold 85%,a distinction), 2 (70-84%), 3 (55-69%) & 4 (40-54%), and fail (below 40%). This grade is calculated as the lower of the overall continuous assessment score (OCAS) and overall examination score (OES).

These grades can be weighted[20] according to their level, and combined to calculate the classification of a degree. An undergraduate degree will weight level 3 courses twice as much as level 2, and in postgraduate programmes all M level courses are equally weighted.

Qualifications

Undergraduate

Open University courses have associated with them a number of Credit Accumulation and Transfer Scheme (CATS) points - usually 30 or 60 - depending on the quantity of the material in the course and a level (1, 2, 3, or 4) corresponding to the complexity, with 120 points roughly equating to the year of study for a full time student.

The OU offers a large number of undergraduate qualifications, including certificates, diplomas, and Bachelors degrees, based on both level and quantity of study. An OU undergraduate degree requires 300 (or 360 for honours) CATS points.

Students generally do not undertake more than 60 points per year, meaning that an undergraduate degree will take typically six years to complete. With the exception of some degrees in fast moving areas (such as computing) there is generally no limit on the time which a student may take. Students need special permission to take more than 120 points (equivalent to full-time study) at any time;[21] such permission is not usually granted.

Originally BA was the only undergraduate degree, and it was unnamed. The modern OU grants both BA and BSc undergraduate degrees, and they may be named (following a specified syllabus) or unnamed (constructed of courses chosen by the student).

Many OU faculties have now introduced short courses worth ten points. Most of these courses are taught online, and start at regular intervals throughout the year. They typically provide an introduction to a broader subject over a period of ten weeks, these are generally timed during vacations at conventional universities in order to take advantage of their facilities. Some science courses, which require only home study, are complemented by residential courses, in order to allow the student to gain practical laboratory experience in that field; typically, an award of degree or diploma will require completion of both.

Different courses are run at different times of the year, but, typically, a 30 or 60 point course will run from February through to October. Assessment is by both continual assessment (with, normally, between four and eight assignments during the year) and, for most, a final examination or on some courses a major assignment.

Degrees

As well as degrees in named subject, the Open University also grants "open" Bachelor degrees where the syllabus is designed by the students by combining any number of Open University courses up to 360 credits for an open honours degree - the main restriction on which courses can be included is that there must be at least 120 at level 3 and no more than 120 at level 1.

Other qualifications

The Open University grants undergraduate **Certificates** (abbreviated Cert) typically awarded after 60 completed credits at Level 1 or Level 3 (where each credit corresponds to roughly 10 hours of study, therefore 60 credits represent about 600 hours of effort), **Diplomas** (abbreviated Dip) after 120 credits - typically 60 points at Level 2 and 60 points at Level 3, ordinary **Bachelor degrees** (abbreviated BA, BSc, etc) after 300 credits, and **Bachelor degrees with honours,** (abbreviated BA (Hons), BSc (Hons), etc) after 360 credits. Open University also awards **Foundation degrees** (abbreviated FdA, FdSc, etc).

OU also offers a limited number of CertHE (120 CATS) and DipHE (240 CATS).

Postgraduate

The Open University provides the opportunity to study for a PhD on a part time distance, or a full time on site basis in a wide range of disciplines as well as an EdD for professionals in education. The University also offers a range of Master's levels courses such as the MBA and MPA, MSc, MA and MEd, and MRes, as well as the professional PGCE qualification and a number of postgraduate diplomas and certificates including innovative practice-based courses and postgraduate computing qualifications for professionals. Postgraduate certificates are awarded for 60 points of study on specified courses; postgraduate diplomas are awarded for 120 points of study on specified courses. The University offers "Advanced Diplomas" that involve 60 credits at undergraduate level and 60 credits

at postgraduate level - these are designed as "bridges" between undergraduate and postgraduate study.

Academic divisions

Faculties

The University has Faculties of Arts, Education & Language Studies, Health & Social Care, Law, Mathematics, Computing and Technology, Science, Social Science, and a Business School. There is no School of Medicine. The new Faculty of Mathematics, Computing and Technology (created from the former Faculties of Mathematics and Computing and Faculty of Technology) was formed on 1 October 2007.

Business school

The OU Business School is the largest provider of MBAs in the UK, producing more graduates than all the rest of the business schools in the UK put together. Its courses are recognised by AMBA, EQUIS, AACSB, and CEL (http://www.open.ac.uk/oubs/our-different-approach/assurances-of-quality.php).

Although the majority of students at the Business School are in the UK, many of the courses are also available throughout most of the world. Students study via distance learning for a Certificate or Diploma in Management and MBA programmes. A number of courses have compulsory residential school which students must attend. The faculty also offers Honours and Foundation degrees in Business Studies and Leadership & Management.

The first Diploma courses were developed from 1983; however the School did not become a separate entity until 1988, when development of the first MBA courses was started. The first MBA students were enrolled in 1989, and the School almost immediately became the largest business school in Europe.

Research

Like other UK universities, the OU actively engages in research. The OU's Planetary and Space Sciences Research Institute has become particularly well known to the public through its involvement in space missions. In October 2006, the Cassini-Huygens mission including 15 people from the OU received the 2006 "Laurels for Team Achievement Award" from the International Academy of Astronautics (IAA). Cassini-Huygens' successful completion of its seven-year, two billion-mile journey in January 2005 to Saturn ended with Huygens landing farther away from Earth than any previous probe or craft in the history of space exploration. The first instrument to touch Saturn's moon Titan was the *Surface Science Package* containing nine sensors to investigate the physical properties of Titan's surface. It was built by a team at the OU led by Professor John Zarnecki.

The OU now employs over 500 people engaged in research in over 25 areas, and there are over 1,200 research students. It spends approximately £20 million each year on research, around £6 million from the Higher Education Funding Council for England, the remainder from external funders.

The Open University also runs the Open Research Online (ORO) website.[22]

Degree ceremonies

Unlike most UK universities, degree ceremonies at the Open University are not the occasion on which degrees are *formally* conferred. This happens *in absentia* at a joint meeting of the University's Council and Senate ahead of the ceremony. The University's ceremonies — or "Presentations of Graduates" — occur during the long summer throughout Britain and Ireland, as well as one ceremony in Versailles. These ceremonies are presided over by a senior academic at Pro-Vice-Chancellor level or higher, and have the normal ritual associated with a graduation

ceremony, including academic dress, procession, and mace.

Notable current and former academics

See also: Category:Academics of the Open University

Walton Hall, OU Campus

- Jocelyn Bell Burnell - Astronomer
- Nigel Cross - Designer
- Ruth Finnegan - Anthropologist
- Brian Goodwin - Biologist
- Brenda Gourley - Vice-chancellor
- Stuart Hall - Social Scientist
- Wendy Hollway - Psychologist
- Arthur Marwick - Historian
- Doreen Massey - Social Scientist
- Oliver Penrose - Mathematician
- Mike Pentz - Physicist
- Colin Pillinger - Planetary scientist
- Steven Rose - Biologist
- Jonathan Silvertown - Biologist
- Russell Stannard - Physicist
- Margaret Wetherell - Discourse Analyst, Social Psychologist
- Glenn White - Astronomer
- Robin Wilson - Mathematician

Walton Hall, headquarters of the OU, in 1970 at the time of its renovation for use by the new university. *(Artist: Hilary French)*

Notable graduates

The OU has over two million alumni from all walks of life, including:

- Craig Brown, former Scotland football manager
- Bobby Cummines, reformed offender, Chief Executive of Unlock
- Frank Hampson, creator of Dan Dare
- Lenny Henry, entertainer[23]
- Myra Hindley, serial killer[24]
- Gerry Hughes, sailor, first single-handed crossing of the Atlantic by a deaf person
- Paul Sykes - Heavyweight boxer and notorious violent criminal
- Meles Zenawi, Prime Minister of Ethiopia[25]
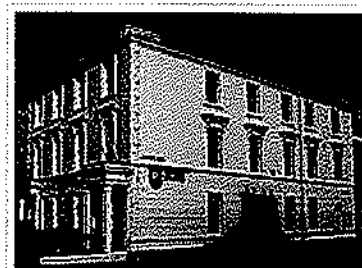
Ireland Region office, Belfast, Northern Ireland

In fiction

The Open University has been featured in many film and television programmes. The plot of *Educating Rita* surrounds the working class character aiming to "improve" herself by studying English literature. She attends private tutorials run by alcoholic lecturer Frank. The teaching methods are not an accurate portrayal of contemporary teaching at the OU.

Television characters have also followed OU courses. These include Anne Bryce in the BBC sit-com *Ever Decreasing Circles*, Yvonne Sparrow in *Goodnight Sweetheart*, and Bulman, in the ITV spin-off from the series *Strangers*. Sheila Grant (Sue Johnston) was accused of having an affair with her tutor in *Brookside*. Onslow, a character from *Keeping up Appearances*, watches Open University programming on television from time to time.

In Autumn 2006, Lenny Henry was a star in *Slings and Arrows*, a one-off BBC television drama which he also wrote, about someone who falls in love while on an OU English Literature course. (Henry has himself completed an OU degree in English)[23]

In the 2006-7 TV series *Life on Mars*, Sam Tyler received messages from the "real" world via Open University programmes late at night.

In the 2005 science fiction novel *Sunstorm*, written by Arthur C. Clarke (author of *2001: A Space Odyssey*) and Stephen Baxter; the fictional Astronomer Royal, called Siobhan McGorran, used to work for the Open University in Milton Keynes.

See also

- Category:Academics of the Open University
- List of Open University Alumni
- Open2.net
- Open University Press

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15. ^ Teleport to Open Life Island. (http://slurl.com/secondlife/Open%20Life/95/48/25) Second Life grid.
16. ^ Teleport to Open Life Village. (http://slurl.com/secondlife/Open%20Life%20Village/86/56/29) Second Life grid.
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External links

- Open University UK website (http://www.open.ac.uk/)
- [1] (http://www.open.ac.uk/openlearn/home.php) - OpenLearn: free learning resources
- COROUS (http://www.corous.com/) — Corporate Open University Services
- OU Forum (http://www.ouforum.com/) — Open University Student Forums
- H2G2 Open University Information (http://www.bbc.co.uk/dna/h2g2/A592490) at the BBC
- Video clip of BBC Open University programme circa 1982 (http://www.youtube.com/watch?v=PE-I2L_GvrU)
- Video clip of BBC Open University Maths programme (date unknown) featuring Robin Wilson (q.v.) (http://youtube.com/watch?v=PEFd4tCWtvk)
- Open Open University (http://open.homelinux.org/) Unofficial knowledge base for students on Unix-like operating systems like Linux and Mac OS X

Retrieved from "http://en.wikipedia.org/wiki/Open_University"
Categories: Open universities | Open University | Distance education institutions

EXHIBIT E 4

OpenDNS

From Wikipedia, the free encyclopedia

OpenDNS is a free DNS (Domain Name System) resolution service.

Contents

- 1 Services
- 2 History
- 3 Servers
- 4 Privacy issues, conflicts and covert redirection
- 5 Server locations
  - 5.1 Current
- 6 See also
- 7 References
- 8 External links

OpenDNS

	OpenDNS
Type	DNS Resolution Service
Founded	2005
Headquarters	San Francisco, California
Key people	Nand Mulchandani (CEO) David Ulevitch (Founder & CTO)
Employees	20
Website	www.opendns.com (http://www.opendns.com/)

Services

OpenDNS offers DNS resolution for consumers and businesses as an alternative to using their Internet service provider's DNS servers. By placing company servers in strategic locations and employing a large cache of the domain names, OpenDNS usually processes queries much more quickly[1], thereby increasing page retrieval speed. DNS query results are sometimes cached by the local operating system and/or applications, so this speed increase may not be noticeable with every request, but only with requests that are not stored in a local cache.

Other features include a phishing filter, domain blocking and typo correction (for example, typing "wikipedia.og" instead of "wikipedia.org"). By collecting a list of malicious sites, OpenDNS blocks access to these sites when a user tries to access them through their service. OpenDNS also launched Phishtank, where users around the world can submit and review suspected phishing sites.

OpenDNS is not, as its name might seem to imply, open source software.

OpenDNS earns a portion of its revenue by resolving a domain name to an OpenDNS server when the name is not otherwise defined in DNS. This has the effect that if a user types a nonexistent name in a URL in a web browser, the user sees an OpenDNS search page. Advertisers pay OpenDNS to have advertisements for their sites on this page. While this behavior is similar to VeriSign's previous Site Finder or the redirects many ISP's are placing on their own DNS servers, OpenDNS states that it is not the same, as OpenDNS is purely an opt-in service (compared to Site Finder's effect on the entire
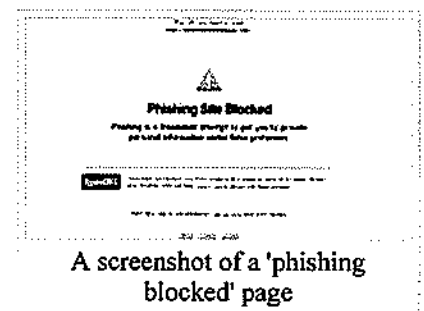

A screenshot of a 'phishing blocked' page

Internet, as VeriSign is an authoritative registry operator)[2] and that the advertising revenue pays for the customized DNS service[3]. Note that web browsers are not the only users of DNS resolution service and for any other user, this way of resolving names is at best useless, and may be worse than replying that the name does not exist, as is normal.

According to OpenDNS, it may in the future provide additional services that run on top of its enhanced DNS service, and may charge money for some of them[3].

One example of such an added service was the company's April 22, 2007 launch[4] of "shortcuts", letting users make custom DNS mappings, such as mapping "mail" to "mail.yahoo.com". This feature launch was covered by a large number of publications, including the New York Times[5], Wired[6], and PC World[7].

On May 13, 2007, OpenDNS launched a new domain blocking service which provides the ability to block/filter web sites visited based upon categories. This provides for corporate, educational and parental control over the type of sites that are deemed appropriate by the networks owner. On August 9, 2007 OpenDNS added the ability to override the filter through individually managed blacklists and whitelists. On February 20, 2008 in an effort to make their domain block list current with new website additions OpenDNS changed from a closed list of blocked domains to a community driven list whereby individual OpenDNS subscribers can suggest sites for blocking. If a sufficient number of other subscribers concur with the categorization of the site it is added to the appropriate category for blocking. The threshold of votes required to add a new site to the filter has not been disclosed. Over 50 categories now exist for categorizing websites providing for fine grained control over web browsing habits.

On December 3, 2007, OpenDNS began offering DNS-O-Matic (http://dnsomatic.com/), a free service, to provide a method of sending dynamic DNS updates to several Dynamic DNS providers using DynDNS's update API.[8]

History

- In July 2006, OpenDNS was launched by computer scientist and entrepreneur David Ulevitch. It received venture capital funding from Minor Ventures, which is led by CNET founder Halsey Minor.

- Before 2007 OpenDNS was using the DNS Update API from DynDNS to handle updates from users with dynamic IPs.[9]

- On July 10, 2006, the service was covered by digg, Slashdot, and Wired News, which resulted in an increase of DNS requests from just over one million requests on July 9 to 30 million on July 11.

- On October 2, 2006, OpenDNS launched PhishTank, an online collaborative anti-phishing database.

- On June 11, 2007, OpenDNS started advanced web filtering to optionally block adult content for their free accounts.

- On November 5, 2008, Nand Mulchandani, former head of VMware's security group, left VMware to join OpenDNS as new CEO, replacing founder David Ulevitch, who will remain as the company's chief technology officer.[10]

Servers

OpenDNS provides the following recursive nameserver addresses for public use, mapped to the nearest operational server location by anycast routing:

- **208.67.222.222** (resolver1.opendns.com)
- **208.67.220.220** (resolver2.opendns.com)

Privacy issues, conflicts and covert redirection

While the OpenDNS name resolution service is free, people have complained about how the service handles failed requests. If a domain cannot be found, the service redirects you to a search page with search results and advertising provided by Yahoo. A DNS user can switch this off via the OpenDNS Control Panel. This behavior is similar to

that of many large ISP's who also redirect failed requests to their own servers containing advertising.

In 2007, David Ulevitch explained that in response to Dell installing "Browser Address Redirector Error" software on their PCs, OpenDNS started resolving requests to Google.com. Some of the traffic is handled by OpenDNS typo-correcting service who corrects mistyped addresses and redirects keyword addresses to OpenDNS's search page; while the rest is transparently passed through to the intended recipient.[11]

Also, a user's search request from the address bar of a browser that is configured to use the Google search engine (with a certain parameter configured) may be covertly redirected to a server owned by OpenDNS without the user's consent (but within the OpenDNS Terms of Service).[12] Users can disable this behavior by logging in to their OpenDNS account and unchecking "OpenDNS proxy" option.[13] Additionally, Mozilla users can fix this problem by installing an extension[14] or by simply changing or removing the navclient sourceid from their keyword search URLs.

This redirection breaks some non-web applications which rely on getting an NXDOMAIN for non-existent domains, such as e-mail spam filtering, or VPN access where the private network's nameservers are consulted only when the public ones fail to resolve.

Server locations

Current

- Seattle
- Palo Alto
- New York
- Washington, DC
- London
- Chicago (added August 2008)

See also

- Open Root Server Network
- OpenNIC
- DNS Advantage

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13. ^ Is OpenDNS running a proxy? (http://www.opendns.com/support/article/244)
14. ^ I'm Feeling Lucky Problem Fix for OpenDNS users (http://cotcaro.blogspot.com/2008/07/im-feeling-lucky-problem-fix-for.html), July 3, 2008.

External links

- Official website (http://www.opendns.com/)
- ComputerWorld article (http://www.computerworld.com/action/article.do?command=viewArticleBasic&articleId=9019951), *Hack DNS for lightning-fast Web browsing*

Retrieved from "http://en.wikipedia.org/wiki/OpenDNS"
Categories: Companies based in San Francisco, California | Domain name system | Internet properties established in 2006 | Web 2.0
Hidden categories: Cleanup from December 2008 | All pages needing cleanup | All articles with unsourced statements | Articles with unsourced statements since October 2007

EXHIBIT E 5

OpenID

From Wikipedia, the free encyclopedia

OpenID is an open, decentralized standard for user authentication and access control, allowing users to log onto many services with the same digital identity. As such, it replaces the common login process that uses a login-name and a password, by allowing a user to log in once and gain access to the resources of multiple software systems.[1]

The OpenID logo

An OpenID is in the form of a unique URL, and is authenticated by the user's 'OpenID provider' (that is, the entity hosting their OpenID URL).[1] The OpenID protocol does not rely on a central authority to authenticate a user's identity. Since neither the OpenID protocol nor Web sites requiring identification may mandate a specific type of authentication, non-standard forms of authentication can be used, such as smart cards, biometrics, or ordinary passwords.

OpenID authentication is used and provided by several large websites. Organizations like AOL, BBC,[2] Google,[3] IBM, Microsoft,[4] MySpace, Orange, PayPal, VeriSign, Yandex, Ustream and Yahoo! act as providers.[5][6][7][1]

Contents

History

The original OpenID authentication protocol was developed in May 2005[8][9] by Brad Fitzpatrick, creator of popular community website LiveJournal, while working at Six Apart.[10] OpenID support was soon implemented on LiveJournal and fellow LiveJournal engine community DeadJournal for blog post comments, and quickly gained attention in the digital identity community.[11][12] Web developer JanRain was an early supporter of OpenID, providing OpenID software libraries and expanding its business around OpenID-based services.

In late June, discussions started between OpenID users and developers from enterprise software company NetMesh, leading to collaboration on interoperability between OpenID and NetMesh's similar Light-Weight

Identity (LID) protocol. The direct result of the collaboration was the Yadis discovery protocol, which was announced on October 24, 2005.[13] After a discussion at the 2005 Internet Identity Workshop (http://iiw.idcommons.net/) a few days later, XRI/i-names developers joined the Yadis project,[14] contributing their Extensible Resource Descriptor Sequence (XRDS) format for utilization in the protocol.[15]

In December, developers at Sxip Identity began discussions with the OpenID/Yadis community[16] after announcing a shift in the development of version 2.0 of its Simple Extensible Identity Protocol (SXIP) to URL-based identities like in LID and OpenID.[17]

2006

In March 2006, JanRain developed a Simple Registration Extension for OpenID for primitive profile-exchange,[18] and in April submitted a proposal to formalize extensions to OpenID. The same month, work had also begun on incorporating full XRI support into OpenID.[19]

Around early May, key OpenID developer David Recordon left Six Apart, joining VeriSign to focus more on digital identity and guidance for the OpenID spec.[12][20] By early June, the major differences between the SXIP 2.0 and OpenID projects were resolved with the agreement to support multiple personas in OpenID by submission of an identity provider URL rather a full identity URL. With this, as well as the addition of extensions and XRI support underway, OpenID was evolving into a full-fledged digital identity framework, with Recordon proclaiming,

> We see OpenID as being an umbrella for the framework that encompasses the layers for identifiers, discovery, authentication, and a messaging services layer that sits atop and this entire thing has sort of been dubbed "OpenID 2.0".[21]

In late July, Sxip began to merge its Digital Identity Exchange (DIX) protocol into OpenID, submitting initial drafts of the OpenID Attribute Exchange extension in August.

2007

On January 31, 2007, Symantec announced support for OpenID in its Identity Initiative products and services.[22] A week later, on February 6 Microsoft made a joint announcement with JanRain, Sxip, and VeriSign to collaborate on interoperability between OpenID and Microsoft's Windows CardSpace digital identity platform, with particular focus on developing a phishing-resistant authentication solution for OpenID. As part of the collaboration, Microsoft pledged to support OpenID in its future identity server products, and JanRain, Sxip, and VeriSign pledged to add support for Microsoft's Information Card profile to their future identity solutions.[23] In mid-February, AOL announced that an experimental OpenID provider service was functional for all AOL and AOL Instant Messenger (AIM) accounts.[24]

In May, Sun Microsystems began working with the OpenID community, announcing an OpenID program,[25] as well as entering a non-assertion covenant with the OpenID community, pledging not to assert any of its patents against implementations of OpenID.[26] In June, OpenID leadership formed the OpenID Foundation, an Oregon-based public benefit corporation for managing the OpenID brand and property.[27] The same month, an independent OpenID Europe Foundation was officially incorporated in Belgium by Snorri Giorgetti.[28] By early December, non-assertion agreements were collected by the major contributors to the protocol, and the final OpenID Authentication 2.0 and OpenID Attribute Exchange 1.0 specifications were ratified on December 5.[29]

2008

In mid-January 2008, Yahoo! announced initial OpenID 2.0 support, both as a provider and as a relying party, releasing the provider service by the end of the month.[30] In early February, Google, IBM, Microsoft, VeriSign,

and Yahoo! joined the OpenID Foundation as corporate board members.[31] Around early May, SourceForge, Inc. introduced OpenID provider and relying party support to leading open source software development website SourceForge.net.[32] In late July, popular social network service MySpace announced support for OpenID as a provider.[33] In late October, Google launched support as an OpenID provider, and Microsoft announced that Windows Live ID would support OpenID.[34] In November, JanRain announced a free hosted service, RPX Basic, that allows websites to begin accepting OpenIDs for registration and login without having to install, integrate, and configure the OpenID open source libraries.[35]

Using OpenID

A basic glossary of the terms used with OpenID:

End-user
> The person who wants to assert his or her identity to a site.

Identifier
> The URL or XRI chosen by the end-user as their OpenID identifier.

Identity provider or OpenID provider
> A service provider offering the service of registering OpenID URLs or XRIs and providing OpenID authentication (and possibly other identity services). Note that the OpenID specifications use the term "OpenID provider" or "OP".
>> *See also: List of OpenID providers*

Relying party
> The site that wants to verify the end-user's identifier. Sometimes also called a "service provider".

Server or server-agent
> The server that verifies the end-user's identifier. This may be the end-user's own server (such as their blog), or a server operated by an identity provider.

User-agent
> The program (such as a browser) that the end-user is using to access an identity provider or a relying party.

Consumer
> An obsolete term for the relying party.

Logging in

The user visits a relying party web site (e.g. `website.relying.com`) which displays an OpenID login form somewhere on their page. Unlike a typical login form with fields for the user name and password, the OpenID login form has only one field - for the OpenID identifier, typically along with a small OpenID logo: ⌗. This form is connected to an implementation of an OpenID client library.

A user typically will have previously registered an OpenID identifier (e.g. `alice.openid.provider.org`) with an OpenID identity provider (e.g. `openid.provider.org`). The user types his OpenID identifier into the aforementioned OpenID login form.[1]

The relying party web site typically transforms the OpenID identifier into a canonical URL form (e.g. `http://alice.openid.provider.org/`). With OpenID 1.0, the relying party then requests the web page located at that URL and reads an HTML link tag to discover the identity provider service URL (e.g. `http://openid.provider.org/openid-auth.php`). The relying party also discovers whether to use a *delegated identity* (see below). With OpenID 2.0, the client discovers the identity provider service URL by requesting the *XRDS document* (also called the *Yadis document*) with the content type `application/xrds+xml` that may be available at the target URL and is always available for a target XRI.

There are two modes in which the relying party can communicate with the identity provider:

- `checkid_immediate`, in which the relying party requests that the provider not interact with the user. All communication is relayed through the user's browser without explicitly notifying the user;
- `checkid_setup`, in which the user communicates with the provider server directly using the same web browser used to access the relying party site.

The second option is more popular on the Web; also, `checkid_immediate` can fallback to `checkid_setup` if the operation cannot be automated.

First, the relying party and the identity provider (optionally) establish a shared secret - referenced by an *associate handle*, which the relying party then stores. If using `checkid_setup`, the relying party redirects the user's web browser to the identity provider so the user can authenticate with the provider.

The method of authentication may vary, but typically, an OpenID identity provider prompts the user for a password or an InfoCard, then asks whether the user trusts the relying party web site to receive his credentials and identity details.

If the user declines the identity provider's request to trust the relying party web site, the browser is redirected to the relying party with a message indicating that authentication was rejected. The relying site in turn refuses to authenticate the user.

If the user accepts the identity provider's request to trust the relying party web site, the browser is redirected to the designated return page on the relying party web site along with the user's credentials. That relying party must then confirm that the credentials really came from the identity provider. If they had previously established a shared secret (see above), the relying party can validate the shared secret received with the credentials against the one previously stored. Such a relying party is called *stateful* because it stores the shared secret between sessions. In comparison, a *stateless* or *dumb* relying party must make one more background request (`check_authentication`) to ensure that the data indeed came from the identity provider.

After the OpenID identifier has been verified, OpenID authentication is considered successful and the user is considered logged in to the relying party web site with the given identifier (e.g. `alice.openid.provider.org`). The web site typically then stores the OpenID identifier in the user's session.

OpenID does not provide its own form of authentication, but if an identity provider uses strong authentication, OpenID can be used for secure transactions such as banking and e-commerce.

Identifiers

Starting with OpenID Authentication 2.0 (and some 1.1 implementations), there are two types of identifiers that can be used with OpenID: URLs and XRIs.

There are two ways to obtain an OpenID-enabled URL that can be used to login on all OpenID-enabled websites.

1. To use an existing URL under one's own control (such as one's blog or home page), and if one knows how to edit HTML, one can insert the appropriate OpenID tags in the HTML code following instructions at the OpenID specification.
2. The second option is to register an OpenID identifier with an identity provider. They offer the ability to register a URL (typically a third-level domain) that will automatically be configured with OpenID authentication service.

XRIs are a new form of Internet identifier designed specifically for cross-domain digital identity. For example, XRIs come in two forms—i-names and i-numbers—that are usually registered simultaneously as synonyms. I-names are reassignable (like domain names), while i-numbers are never reassigned. When an XRI i-name is used as an OpenID identifier, it is immediately resolved to the synonymous i-number (the CanonicalID element of the

XRDS document). This i-number is the OpenID identifier stored by the relying party. In this way both the user and the relying party are protected from the user's OpenID identity ever being taken over by another party as can happen with a URL based on a reassignable DNS name.

Adoption

As of November 2008, there are over 500 million OpenIDs on the Internet (see below) and approximately 27,000 sites have integrated OpenID consumer support.[36]

- America Online provides OpenIDs in the form "openid.aol.com/*screenname*".
- Orange offers OpenIDs to their 40 million broadband subscribers, and accepts OpenID to allow non subscriber users to access a subset of services.
- VeriSign is offering a secure OpenID service, with two-factor authentication, which they call "Personal Identity Provider".
- Six Apart blogging hosts LiveJournal, TypePad and Vox. Each support OpenID; Vox as a provider and LiveJournal as both a provider and a relying party.
- Springnote uses OpenID as the only sign in method, requiring the user to have an OpenID when signing up.
- WordPress.com also provides OpenID
- Other services accepting OpenID as an alternative to registration include Wikitravel,[37] photo sharing host Zooomr, linkmarking host Ma.gnolia, identity aggregator ClaimID, calendar booking Bookwhen, icon provider IconBuffet, user stylesheet repository UserStyles.org, and Basecamp and Highrise by 37signals.
- Yahoo! allows users to use their Yahoo! IDs as OpenIDs starting January 31, 2008.[38]
- Userstyles.org, the CSS repository for Stylish
- SourceForge
- Google[39]
- Luxsci is both an OpenID consumer and provider.
- Facebook is now an OpenID relying party.

Some of the companies (especially the biggest ones) which did enable OpenID have been criticized for being a provider of OpenID identities to third-party websites, without allowing credentials of another website to work with their own websites.[40]

OpenID Foundation

The OpenID Foundation (http://openid.net/foundation) is a 501(c)(3) non-profit organization incorporated in the United States. The OpenID Foundation was formed to help manage copyright, trademarks, marketing efforts and other activities related to the success of the OpenID community. The single goal of the OpenID Foundation is to protect OpenID.

People

The OpenID Foundation's board of directors has eight community members and seven corporate members:[27]

Community Members:

- Brian Kissel (JanRain)
- Chris Messina (Vidoop)
- David Recordon (Six Apart)
- Eric Sachs (Google)
- Joseph Smarr (Plaxo)
- Nat Sakimura (Nomura Research Institute)
- Scott Kveton (Vidoop)

- Snorri Giorgetti (OpenID Europe)

Corporate Members:

- Facebook - Luke Shepard
- Google - DeWitt Clinton
- IBM - Tony Nadalin
- Microsoft - Michael B. Jones
- PayPal - Andrew Nash
- VeriSign - Gary Krall
- Yahoo! - Raj Mata

A European counterpart, the OpenID Europe Foundation headquartered in Paris, was founded in June 2007. It is a non-profit organization to help promote and deploy the OpenID software framework in Europe. OpenID Europe is independent of the OpenID Foundation.[41] Snorri Giorgetti of OpenID Europe also serves as the OpenID Foundation's representative in Europe.

Legal issues

The OpenID trademark in the United States was assigned to the OpenID Foundation in March 2008.[42] It had been registered by NetMesh Inc. before the OpenID Foundation was operational.[43][44] In Europe, as of August 31, 2007, the OpenID trademark is registered to the OpenID Europe Foundation.[45]

The OpenID logo was designed by Randy "ydnar" Reddig, who in 2005 had expressed plans to transfer the rights to an OpenID organization.[46] The official openid.net domain is registered to Six Apart, which was granted by the previous owner David I. Lehn,[47] and the rights of which were officially transferred on June 16, 2005.

The official site currently states:

> Nobody should own this. Nobody's planning on making any money from this. The goal is to release every part of this under the most liberal licenses possible, so there's no money or licensing or registering required to play. It benefits the community as a whole if something like this exists, and we're all a part of the community.

Sun Microsystems, VeriSign and a number of smaller companies involved in OpenID have issued patent non-assertion covenants covering OpenID 1.1 specifications. The covenants state that neither company will assert any of their patents against OpenID implementations and will revoke their promises from anyone who threatens, or asserts, patents against OpenID implementors.[26][48]

Security and phishing

Some observers have suggested that OpenID has security weaknesses and may prove vulnerable to phishing attacks.[49][50][51] For example, a malicious relying party may forward the end-user to a bogus identity provider authentication page asking that end-user to input their credentials. On completion of this, the malicious party (who in this case also control the bogus authentication page) could then have access to the end-user's account with the identity provider, and as such then use that end-user's OpenID to log into other services.

In an attempt to combat possible phishing attacks some OpenID providers mandate that the end-user needs to be authenticated with them prior to an attempt to authenticate with the relying party.[52] This relies on the end-user knowing the policy of the identity provider. In December 2008, the OpenID Foundation approved version 1.0 of the Provider Authentication Policy Extension (PAPE), which "enables Relying Parties to request that OpenID Providers employ specified authentication policies when authenticating users and for OpenID Providers to inform the Relying Parties which policies were actually used."[53] Regardless, this issue remains a significant additional

vector for man-in-the-middle phishing attacks.

See also

- Athens access and identity management
- DataPortability
- Extensible Name Service
- Identity 2.0
- Information Card
- Liberty Alliance
- Light-Weight Identity

- List of OpenID providers
- OAuth
- SAML
- Shibboleth (Internet2)
- Single sign-on
- Windows CardSpace
- WS-Federation

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- OpenID for non-SuperUsers (http://intertwingly.net/blog/2007/01/03/OpenID-for-non-SuperUsers) - by Sam Ruby

External links

- OpenID official site (http://openid.net/)
- OpenID (http://www.dmoz.org/Computers/Security/Authentication/Single_Sign-On/OpenID/) at the Open Directory Project

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